

# Contract for the sale and purchase of land 2018 edition

<b>TERM</b>	<b>MEANING OF TERM</b>	<b>eCOS ID:</b>	<b>NSW Duty:</b>
vendor's agent	<b>Burgess Rawson</b> Level 18, 15 Castlereagh Street SYDNEY NSW 2000		Phone <b>02 8113 5209</b> Fax <b>02 9221 8193</b> Ref <b>Rhys Parker</b>
co-agent vendor	<b>Omid Darzi ABN 62 700 884 906</b> 139 Victoria Street TAREE NSW 2430		
vendor's solicitor	<b>Stacks Law Firm</b> 207 Victoria Street Taree NSW 2430 DX 7006 Taree NSW		Phone <b>(02) 6592 6522</b> Fax <b>02 6592 6593</b> Ref <b>TJS:ML:190116</b> Email <b>tstack@stacklaw.com.au</b>
date for completion	<b>42<sup>nd</sup> day after the date of this Contract</b>		(clause 15)
land (Address, plan details and title reference)	<b>137-139 Victoria Street, TAREE NSW 2430</b> <b>Registered Plan: Lot 30 Plan DP 222606</b> <b>Folio Identifier 30/222606</b>		
improvements	<input type="checkbox"/> Vacant Possession <input checked="" type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Restaurant (ground floor and upstairs)		
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: 1, 2, 6, 9, 10, 15 & 23 <input type="checkbox"/> other documents:		

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

inclusions	<input type="checkbox"/> blinds	<input type="checkbox"/> dishwasher	<input type="checkbox"/> light fittings	<input type="checkbox"/> stove
	<input type="checkbox"/> built-in wardrobes	<input type="checkbox"/> fixed floor coverings	<input type="checkbox"/> range hood	<input type="checkbox"/> pool equipment
	<input type="checkbox"/> clothes line	<input type="checkbox"/> insect screens	<input type="checkbox"/> solar panels	<input type="checkbox"/> TV antenna
	<input type="checkbox"/> curtains	<input checked="" type="checkbox"/> other: See Inventory marked "A" attached hereto.		
exclusions	See Special Condition 8 and Inventory marked "B" attached hereto.			
purchaser				
purchaser's solicitor	Phone Fax Ref			
price	\$			
deposit	\$	(10% of the price, unless otherwise stated)		
balance	\$			
contract date	(if not stated, the date this contract was made)			

buyer's agent \_\_\_\_\_

\_\_\_\_\_ witness

\_\_\_\_\_

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

\_\_\_\_\_ witness

**purchaser**       JOINT TENANTS    tenants in common    in unequal shares

**Choices**

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

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

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

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

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

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

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

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

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

Supplier's name:

Supplier's ABN:

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of RW payment: \$

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

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

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

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

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

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

## List of Documents

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

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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



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

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

### **DISPUTES**

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

### **AUCTIONS**

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

**WARNINGS**

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

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

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

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

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

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

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

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

## 2 Deposit and other payments before completion

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

- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.
- 3 Deposit-bond**
- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Transfer**
- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.
- 6 Error or misdescription**
- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

## 7 Claims by purchaser

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

## 8 Vendor's rights and obligations

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

## 9 Purchaser's default

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

## 10 Restrictions on rights of purchaser

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

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

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

#### 14 Adjustments

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

#### 15 Date for completion

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

**16 Completion****• Vendor**

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

**• Purchaser**

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

**• Place for completion**

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

**17 Possession**

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

**18 Possession before completion**

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



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

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

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

## 19 Rescission of contract

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

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

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

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

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

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

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

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

## 20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 21 Time limits in these provisions

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

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

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

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

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

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

## 22 Foreign Acquisitions and Takeovers Act 1975

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

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

**23 Strata or community title****• Definitions and modifications**

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

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

• **Notices, certificates and inspections**

- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

**24 Tenancies**

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

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

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

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

## 26 Crown purchase money

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

## 27 Consent to transfer

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

**28 Unregistered plan**

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

**29 Conditional contract**

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

**30 Electronic transaction**

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

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

- 30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –
- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgement Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
  - the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
- 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- |                                 |   |
|---------------------------------|---|
| <i>adjustment figures</i>       | details of the adjustments to be made to the price under clause 14;   |
| <i>certificate of title</i>     | the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;  |
| <i>completion time</i>          | the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;   |
| <i>conveyancing rules</i>       | the rules made under s12E of the Real Property Act 1900;  |
| <i>discharging mortgagee</i>    | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i>                     | the Electronic Conveyancing National Law (NSW);   |
| <i>effective date</i>           | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;  |
| <i>electronic document</i>      | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;   |
| <i>electronic transfer</i>      | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;  |
| <i>electronic transaction</i>   | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;   |
| <i>electronically tradeable</i> | a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;  |
| <i>incoming mortgagee</i>       | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;  |
| <i>mortgagee details</i>        | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;  |
| <i>participation rules</i>      | the participation rules as determined by the <i>ENCL</i> ;  |
| <i>populate</i>                 | to complete data fields in the <i>Electronic Workspace</i> ; and  |
| <i>title data</i>               | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .   |

### 31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *remittance amount* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and

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

137-139 VICTORIA ST TAREE NSW 2430



## CONDITIONS OF SALE BY AUCTION

If the property is or is intended to be sold at auction:

*Bidders Record* means the Bidders Record to be kept pursuant to Clause 18 of the *Property, Stock and Business Agents Regulation 2003* and Section 68 of the *Property, Stock and Business Agents Act 2002*:

- (1) The following conditions are prescribed as applicable to and in respect of the sale by auction of land or livestock:
  - (a) The principal's reserve price must be given in writing to the auctioneer before the auction commences.
  - (b) A bid for the seller cannot be made unless the auctioneer has, before the commencement of the auction, announced clearly and precisely the number of bids that may be made by or on behalf of the seller.
  - (c) The highest bidder is the purchaser, subject to any reserve price.
  - (d) In the event of a disputed bid, the auctioneer is the sole arbitrator and the auctioneer's decision is final.
  - (e) The auctioneer may refuse to accept any bid that, in the auctioneer's opinion, is not in the best interests of the seller.
  - (f) A bidder is taken to be a principal unless, before bidding, the bidder has given to the auctioneer a copy of a written authority to bid for or on behalf of another person.
  - (g) A bid cannot be made or accepted after the fall of the hammer.
  - (h) As soon as practicable after the fall of the hammer the purchaser is to sign the agreement (if any) for sale.
- (2) The following conditions, in addition to those prescribed by subclause (1), are prescribed as applicable to and in respect of the sale by auction of residential property or rural land:
  - (a) All bidders must be registered in the Bidders Record and display an identifying number when making a bid.
  - (b) Subject to subclause (2A), the auctioneer may make only one vendor bid at an auction for the sale of residential property or rural land and no other vendor bid may be made by the auctioneer or any other person.
  - (c) Immediately before making a vendor bid the auctioneer must announce that the bid is made on behalf of the seller or announce "vendor bid".
- (2A) The following conditions, in addition to those prescribed by subclauses (1) and (2), are prescribed as applicable to and in respect of the sale by auction of co-

owned residential property or rural land or the sale of such land by a seller as executor or administrator:

- (a) More than one vendor bid may be made to purchase the interest of a co-owner.
  - (b) A bid by or on behalf of an executor or administrator may be made to purchase in that capacity.
  - (c) Before the commencement of the auction, the auctioneer must announce that bids to purchase the interest of another co-owner or to purchase as executor or administrator may be made by or on behalf of the seller.
  - (d) Before the commencement of the auction, the auctioneer must announce the bidder registration number of any co-owner, executor or administrator or any person registered to bid on behalf of any co-owner, executor or administrator.
- (3) The following condition, in addition to those prescribed by subclause (1), is prescribed as applicable to and in respect of the sale by auction of livestock:

The purchaser of livestock must pay the stock and station agent who conducted the auction (or under whose immediate and direct supervision the auction was conducted) or the vendor the full amount of the purchase price:

- (a) if that amount can reasonably be determined immediately after the fall of the hammer – before the close of the next business day following the auction, or
- (b) if that amount cannot reasonably be determined immediately after the fall of the hammer – before the close of the next business day following determination of that amount,

unless some other time for payment is specified in a written agreement between the purchaser and the agent or the purchaser and the vendor made before the fall of the hammer.

## **SPECIAL CONDITIONS**

BETWEEN: Omid Darzi

**(Vendor)**

AND:

**(Purchaser)**

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### **1. Amendments to the standard form Contract**

- 1.1 Clause 8.1.1: delete the words “on reasonable grounds”.
- 1.2 Clause 8.1.2: delete the words “and those grounds”.
- 1.3 Clause 16.11.3: add the words “or any other place reasonably nominated by the vendor’s solicitor”.
- 1.4 Clause 16.12: delete the clause.
- 1.5 Clause 20.6: add the following clause after clause 20.6.7  
“20.6.8 *served* if it is sent by email to the party’s *solicitor* to an address given by the party as an email address of that party”.

### **2. Purchaser accepts property**

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

### **3. Clause 7 Claim**

Any claim pursuant to Clause 7 shall be deemed to be a requisition with which the Vendor is unable or unwilling to comply for the purpose and application of Clause 8.1.1 of the Contract.

### **4. Notice to Complete**

In the event of the Purchaser's failure to complete this Contract on or prior to the date for completion referred to in Clause 15, the Vendor shall be entitled to serve on the Purchaser a notice requiring completion of the Contract, within fourteen (14) days from service of such notice and such completion within such time shall be deemed to be an essential term of this Contract. In the event such notice issues, the Purchaser shall allow on completion the Vendor's costs in that regard in the sum of \$275.00, payment of which is an essential term of this Contract.

**5. Time for Compliance**

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

**6. Additional costs payable if Contract completion delayed**

It is an essential term of this Contract that, if completion does not take place on or before the date for completion for any reason other than the default or delay of the Vendor:

- (a) in addition to the balance of the price and any other money payable hereunder to the Vendor on completion the Purchaser shall pay to the Vendor interest on the balance of the price and any other moneys payable hereunder to the Vendor at the rate of 8.00 per centum per annum computed from the date for completion up to and including the actual completion date of this Contract; and
- (b) notwithstanding anything herein contained and Clause 14.1 hereof, the date at which adjustments are to be made in respect of rates taxes and outgoings between the parties hereto shall be the earlier of:
  - (i) the date possession of the property is given to the Purchaser; and
  - (ii) the date for completion stipulated on the front page of this Contract.
- (c) It is agreed that the amount payable pursuant to this condition is a genuine pre-estimate of the vendors' loss of interest for the purchase money and liability for rates and outgoings.

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

**7. Purchaser's warranty & indemnity**

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

**8. Subject to Lease**

- (a) The Purchaser acknowledges that the property is sold subject to the lease more particularly described in the lease attached hereto and the Purchaser further acknowledges that before entering into this Contract the Purchaser

inspected such copy lease and familiarised itself in relation to the particulars of the Tenancy so contained and is satisfied regarding all matters contained in arising from or disclosed in the said lease which lease the parties agree will be registered either prior to settlement or registered by the Purchaser after settlement (with the Vendor allowing to the Purchaser the appropriate registration fee) AND the Purchaser shall make no objection requisition or claim for compensation in regard to any such matters.

- (b) The Purchaser covenants with the Vendor to at all times fully observe and comply with the obligations of the Lessor contained in the said lease including the options AND the Purchaser hereby agrees to indemnify and keep indemnified the Vendor from and against any action suit claim loss expense or demand arising from or as a result of any failure on the part of the Purchaser to observe and perform the obligations contained in this special condition which action suit claim loss expense or demand arises after completion of this Contract.
- (c) The provisions of this special condition 8 (a) and (b) shall continue to subsist and have effect notwithstanding settlement.

The Purchaser is aware that certain fixtures in the leased property referred to herein may be in the nature of Tenant's fixtures (see Inventory of Lessee's fixtures and fittings marked "B" attached hereto) and, accordingly, are not included in the within sale.

## **9. Going Concern**

In this clause:

- (a) "GST" refers to goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 ("GST Act") and the terms used to have the meanings as defined in the GST ACT.
- (b) The Vendor and the Purchaser agree that the sale of the leased property in this Contract is the supply of a going concern as intended under Subdivision 38-J of the GST Act.
- (c) The Purchaser represents and warrants that the Purchaser is registered or is required to be registered under the GST Act and that by the completion date the Purchaser will be registered and the Purchaser will produce written confirmation from the Australian Taxation Office of registration.
- (d) The Vendor agrees that it will carry on the conduct of the leasing on the property as a going concern until the completion of this sale.

- (e) The parties entered into this Contract on the basis that the supply is GST-free and the consideration is exclusive of GST.
- (f) If the Commissioner of Taxation determines that any supply under or in relation to this Contract which purported to be a GST-free supply is not a GST-free supply, then:
  - (i) The consideration specified as the purchase price herein (the "original amount"), shall be increased by an "additional amount".
  - (ii) The additional amount shall be calculated so that, taking into account the Vendor/supplier's obligation to remit GST on the original amount and any and all other payments required by the Commissioner of Taxation, the net amount retainable by the Vendor/supplier shall be equal to the original amount.
  - (iii) The Purchaser agrees to pay to the Vendor the additional amount within fourteen (14) days after the Vendor's liability for GST on this sale is confirmed by correspondence or an assessment from the Commissioner.

The Vendor shall deliver to the Purchaser, as a precondition to such payment, a Tax Invoice in a form which complies with the GST Act and the regulations

## **10. Company Guarantors**

- (a) In the event of the Purchaser herein being a Company each of the persons signing this Contract on behalf of the Company warrants that the Company has been incorporated and those persons acknowledge and agree that they shall be personally liable under this Contract, both jointly and severally, as if they had been named as Purchasers.
- (b) In the event that the Purchaser is a Company and in the event that the Purchaser defaults in its obligations under this Contract, the Directors of that Company who have signed this Contract on behalf of the Company hereby guarantee, both jointly and severally, the due performance of the Company in relation to its obligations pursuant to the terms of this Contract in every respect as if they had personally entered into this Contract themselves.

The provisions of this special condition shall not merge upon completion, or termination, of this Contract.

## **11. Headings**

All headings in these special conditions are a guide only and shall not affect the meaning of the terms of the respective condition.

**“A”**

**INVENTORY OF LESSOR’S FIXTURES AND FITTINGS**

**137-139 VICTORIA STREET TAREE**

**LESSOR**

All the plant and equipment, fixtures and fittings of the Lessor including as follows:-

Downlights

Air conditioner

Grease Arrestor

Toilet amenities and plumbing

Other property in, or fixed to the premises, that is not the Lessee’s property.

**“B”**

## **INVENTORY OF LESSEE’S FIXTURES AND FITTINGS**

### **137-139 VICTORIA STREET TAREE**

All property, plant and equipment, fixtures and fittings owned and used by the Lessee in the operation of the Lessee’s business at the premises excluding any items of property that are the Lessor’s property.

#### **REAR OF BUILDING**

Alarm System

Camera system

Storage racks

Range hood canopy – Lessee item but will remain on vacate

Coolroom and Compressor – Lessee item but will remain on vacate

#### **KITCHEN**

Stainless steel range hoods – Lessee item but will remain on vacate

Cook-tops, ovens & dishwasher

Stainless steel counter

Storeroom shelving

Pizza Oven

Decorative light pendants

Stainless steel servery - Lessee item but will remain on vacate

#### **BATHROOM**

Artwork

#### **DINING**

Pot plants

Timber shelving and storage cabinets

Wall artwork

Decorative light pendant

Lights

Parquetry flooring

Ceiling fans

Mirror

Books

Wine rack

Tables & Chairs

Clock

PA system

Bench seats



**EXTERNAL**

Pot plants  
Signage

**BAR**

Pendant lighting  
Coffee machine  
Bar fridges  
Display cabinet  
Artwork  
Ceiling fans  
Wall lights  
Fixed stainless steel shelving – Lessee item but will remain on vacate  
Floor brass rail  
Dishwasher  
Counter – Lessee item but will remain on vacate  
POS system and register  
Shopfront – Lessee item but will remain on vacate  
Outdoor tables, chairs & umbrellas

**FIRST FLOOR**

All loose furniture

**GENERAL**

Floorcoverings – Lessee item but will remain on vacate  
Fixed kitchen items – Lessee item but will remain on vacate

**MAKE GOOD**

The Lessee is not required to remove at the time of vacating as follows:-

1. Range hood canopy;
2. Coolroom and Compressor;
3. Stainless steel range hoods;
4. Stainless steel servery;
5. Fixed stainless steel shelving;
6. Counter;
7. Shopfront;
8. Floorcoverings;
9. Fixed kitchen items



FOLIO: 30/222606

-----

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
19/2/2019	4:00 PM	5	2/9/2018

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.  
CONTROL OF THE RIGHT TO DEAL IS HELD BY COMMONWEALTH BANK OF AUSTRALIA.

LAND

-----

LOT 30 IN DEPOSITED PLAN 222606  
AT TAREE  
LOCAL GOVERNMENT AREA MID-COAST  
PARISH OF TAREE COUNTY OF MACQUARIE  
TITLE DIAGRAM DP222606

FIRST SCHEDULE

-----

OMID DARZI (T AG573184)

SECOND SCHEDULE (5 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 BK 2527 NO 876 RIGHT OF WAY APPURTENANT TO THE LAND ABOVE  
DESCRIBED AFFECTING LOT 14B IN DP33079 SHOWN IN DP776075
- 3 EASEMENT FOR SUPPORT AS MORE FULLY SET OUT IN DEED BOOK 2527 NO.  
374
- 4 BK 558 NO 733 RIGHT OF WAY APPURTENANT TO THE LAND ABOVE  
DESCRIBED AFFECTING THE PIECE OF LAND 3.35 WIDE SHOWN IN DP150814
- 5 AM373511 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

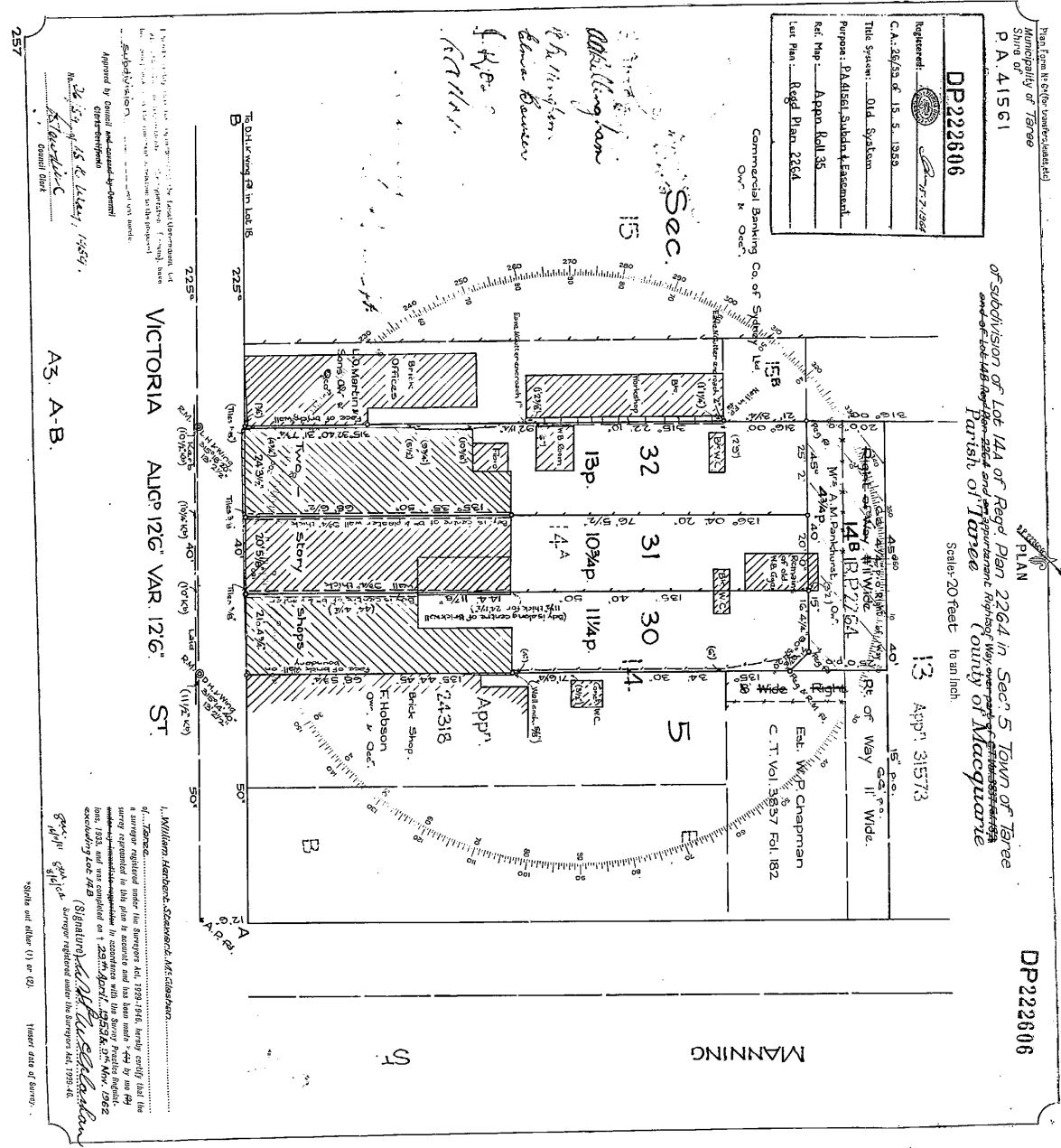
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UNREGISTERED DEALINGS: NIL

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

1608000000

This margin to be left free from notation



Plan from W. 6/1000-0000000000  
 Municipality of Toroe  
 P.A. 41561  
**DP222606**  
 Registered  
 C.A. 26/23 of 15. 5. 1989  
 Title System: Old System  
 Purpose: Pastoral, Suburban, Residential  
 Ref. Map: Appn. Roll 35  
 Lat Plan: Regd. Plan. 2264

of subdivision of Lot 144 of Regd. Plan 2264 in Sec. 5, Town of Toroe  
 and of Lot 148 Regd. Plan 2264 and of adjacent Right of Way  
 Parish of Toroe  
 County of Macquarie  
 Scale: 20 Feet to an Inch

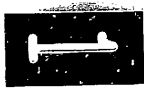
I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 17th day of May, 1977

*L. Williams, Herbert, Stewart, McEachern,*  
 Surveyors registered under the Surveyors Act, 1929-1946, hereby certify that the survey represented in this plan is accurate and has been made by me and my assistants in accordance with the provisions of the Surveyors Act, 1929-1946, and was registered on 15/05/1977 in accordance with the provisions of the Surveyors Act, 1929-1946.  
 (Signature) *L. Williams*  
 Surveyor registered under the Surveyors Act, 1929-46

This is the plan marked " " referred to in \_\_\_\_\_  
 Dated \_\_\_\_\_

CONVERSION TABLE ADDED IN REGISTER GENERAL'S DEPARTMENT	CONVERSION TABLE ADDED IN REGISTER GENERAL'S DEPARTMENT
0.1 222506	0.1 222506
FEET INCHES	METRES
0 3/8	0.010
0 5/8	0.016
0 7/8	0.019
1 1/2	0.062
4 3/8	0.112
4 3/4	0.111
4 3/4	0.121
5 1/2	0.149
5	0.152
9 3/4	0.229
10 3/8	0.248
10 3/8	0.254
11 1/2	0.282
1 0 1/4	0.305
1 0 1/4	0.311
1 0 1/2	0.318
1 1 1/4	0.337
1 2 3/8	0.355
2	0.606
2	0.965
2 7/8	2.158
3	3.817
3 1/2	4.026
4 1/4	4.985
5 1/4	5.096
5 1/4	6.226
5 1/4	6.483
5 1/4	6.521
5 1/2	7.355
5 1/2	7.404
5 1/2	7.620
5 1/2	9.614
5 1/4	13.519
4 1/4	20.117
4 1/4	20.225
4 1/4	20.872
5 3/4	20.892
5 1/2	21.980
5 1/2	23.305
5 1/2	26.002
7 1/8	44.135
11 7/8	
AC RD P	SG M
4 1/4	107.5
4 3/4	120.1
10 3/4	271.9
11 1/4	294.5
13	328.8

I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 17th day of May, 1977





Ad Valorem Duty  
Paid  
£133.15.0  
N.S.W.  
Stamp Duties Office

NEW SOUTH WALES  
7/6 Duly Stamped  
STAMP DUTY  
19.4.60

Conveyance

No 876

Book 2527

2  
JUN 1960

THIS DEED made the Eighth day of April One thousand nine hundred and sixty BETWEEN ALICE MAUD PANKHURST the wife of John Pankhurst of Earlwood in the State of New South Wales Retired Fruiterer (hereinafter called the Vendor) of the one part and ALWYN ARTHUR BILLINGHAM, DESMOND ERNEST BILLINGHAM both of Taree aforesaid Mercers and ELMA JOAN BOWSER the wife of Colin Eric Bowser of Woolwich in the said State School Teacher (hereinafter called the Purchasers) of the other part WHEREAS the Vendor is seised for an estate in fee simple of the land described in the first schedule hereto as described and comprised in a conveyance dated third day of May 1918 made between Horace Beeton and the Vendor registered No. 74 Book 1128 AND WHEREAS the Vendor has caused a subdivision to be made of the said land as shown on a plan of survey prepared by Mr. Surveyor W.H.S. McGlashan and dated twenty ninth day of April 1959 AND WHEREAS the said land has erected on it three buildings with two party walls and a common roof which are occupied as shops by tenants of the Vendor each of whom is purchasing from her such part of the said land as is occupied by each of them as a tenant being lots 30, 31 and 32 and the residue of the land comprised in the said conveyance is being conveyed to the Council of the Municipality of Taree AND WHEREAS there is a right of way giving access to the land described in the first schedule hereto as shown on the said plan of subdivision and granted by indenture dated twenty seventh day of May 1895 made between JAMES ROBINSON SENIOR and JOHN BELFORD Registered No. 733 Book 558 AND WHEREAS the Vendor has agreed with the Council of the Municipality of Taree that that portion of the land owned by her and marked in the said plan of subdivision as Lot 14B being the residue of the land after excluding said Lots 30, 31 and 32 should be conveyed to such Council and in consideration thereof the said Council would grant to her her heirs executors administrators and assigns and all persons authorised by her a right of way for all purposes and at all times to the rear boundary of the said land shown in the said plan as Lots 30, 31 and 32 over such route in Section five of the said town as such Council should determine to Albert Street and Manning Street in the said town but in the case of the right of way to Manning Street restricted to human beings and that as part of

*AC Billingham*

Taree



the consideration therefor the Vendor should convey to such Council all her right title and interest in the right of way at present shown on the said plan and marked as right of way and giving access to the said land described in the first schedule hereto to Manning Street in the said town AND WHEREAS the Purchasers have fully informed themselves of the said right of way to be given by the said Council and have been fully informed of the intention to convey the said existing right of way to Manning Street to the said Council AND WHEREAS the Vendor pending the conveyance of the said land referred to as Lot 14B to the said Council and the establishment of the right of way to be given by it to the Purchasers their respective heirs executors administrators and assigns and all persons authorised by them or either of them has agreed to grant to the Purchasers their respective heirs executors administrators and assigns and all persons authorised by them or either of them a right of way for all purposes at all times over the strip of land shown hatched red on the said plan and thence by the said right of way at present existing and shown on the said plan at the rear of her premises to Manning Street aforesaid but so that such right of way shall only subsist until such time as the said right of way to be granted by the said Council has been established as aforesaid AND WHEREAS the Vendor has agreed to sell to the Purchasers as tenants in common in equal/<sup>one third</sup>shares the land described in the second schedule hereto subject as hereinafter mentioned together with the benefit of the said right of ways for the sum of TEN THOUSAND SIX HUNDRED AND SIXTY SIX POUNDS THIRTEEN SHILLINGS AND FOURPENCE (£10666.13. 4) and the Purchasers have agreed to purchase the said land for the said sum NOW THIS DEED WITNESSETH that in pursuance of the said agreement and of the premises and in consideration of the sum of TEN THOUSAND SIX HUNDRED AND SIXTY SIX POUNDS THIRTEEN SHILLINGS AND FOURPENCE (£10666.13. 4.) paid by the Purchasers in equal one ~~half~~<sup>third</sup> shares to the Vendor (the receipt whereof is hereby acknowledged) the Vendor as beneficial owner DOTH HEREBY convey unto the Purchasers in fee simple ALL THAT piece or parcel of land more particularly described in the second schedule hereto TO HOLD unto the Purchasers in fee simple as tenants in common in equal/<sup>one third</sup>shares and being Lot 30 shown on the said plan and signed by the parties hereto for identification TOGETHER with the benefit of a right of way over that portion of the land shown on the said plan lying at the rear of the said Lots 30, 31 and 32 hatched red for all purposes and at all times and together with the benefit of the right of way at present existing and giving access to the Vendor to Manning Street in the said town and as shown on the said plan eleven feet wide but so that such rights of way over the said respective portions of land

X-in.

X-in.



mentioned shall cease and be of no effect as from the date on which the Council of the Municipality of Taree shall grant to the Purchasers a right of way for all purposes at all times by a route established by it of which the said Lot 14B shall form part to Albert Street and Manning Street in the said town but in the case of the right of way to Manning Street restricted to human beings on which date all rights hereby created for the benefit of the Purchasers in respect of the said rights of way shall be determined AND for the purpose of complying with the provisions of Section 88 of the Conveyancing Act 1919-1956 in so far as it may be necessary IT IS HEREBY AGREED AND DECLARED by and between the parties hereto:-

- (a) That the land to which the benefit of the said rights of ways is appurtenant is the land described in the second schedule hereto being lot 30 on the said plan of subdivision.
- (b) The land which is subject to the burden of the said right of way is the land hatched red on the said plan.
- (c) The persons having the right to release vary or modify the said covenant shall be the purchasers their respective heirs executors administrators and assigns.

AND the Purchasers and each of them hereby covenant with the Vendor that they and each of them will when such rights of ways have been given to them by the said Council forthwith convey surrender or take such other proper action to give up and surrender and pass over to the Council all their rights title and interest in the said rights of ways hereinbefore referred to AND THE parties hereto and each of them hereby acknowledge and declare that the said land is hereby conveyed subject to the following restrictions covenants and declarations on their part and each of their parts herein contained that is to say IT IS HEREBY DECLARED that the wall as shown in the said plan dividing the land hereby conveyed from the adjoining land being Lot 31 on the said plan of subdivision and more particularly described in the third schedule hereto and every extension thereof shall be deemed a party wall as defined in the Conveyancing Act 1919-1956 Section 181B and the respective parties hereto shall contribute equally to all necessary reconstruction and repairs of such party wall AND the purchasers and each of them as to their respective one undivided equal <sup>one third</sup> ~~half~~ share in the said land hereby conveyed to them DO HEREBY for themselves and their respective heirs executors administrators and assigns covenant with the Vendor her



heirs executors administrators and assigns that they and each of them shall contribute equally to all necessary reconstruction and repairs of the said party wall as shown and designated as such in the said plan of subdivision AND the Vendor for herself her heirs executors administrators and assigns as the owner of said Lot 31 described in the third schedule hereto hereby covenants with the Purchasers and each of them their respective heirs executors administrators and assigns that she shall contribute equally to all necessary reconstruction and repairs of the said party wall AND for the purpose of complying with the provisions of Section 88 of the said Conveyancing Act in so far as it may be necessary IT IS HEREBY AGREED AND DECLARED by and between the parties hereto:-

- (a) That the land to which the benefit of the covenants is applicable is the land described in schedules numbers 2 and 3 hereto and shown on the said plan as Lots 30 and 31.
- (b) The land which is subject to the burden of the said covenants is that part of the said Lots 30 and 31 on which the said party wall is erected as shown in the said plan and part of which is included in the said land described in schedule two hereof and the other part is included in the said land which is the said Lot 31 described in the third schedule hereto.
- (c) The persons having the right to release vary or modify the said covenants shall be the Vendor and the Purchasers their respective heirs executors administrators and assigns.

AND IT IS HEREBY FURTHER DECLARED THAT THE cross easements of support referred to in Section 184-B shall only endure in favour of the respective parties or other the respective owners for the time being of the said lands so long as such persons contribute equally to the cost of all necessary reconstruction and repair of the said party wall, and if either party hereto or other the owner for the time being of either of the said portions of land upon being given written notice to contribute equally to any necessary reconstruction or repair of the said party wall should for thirty days thereafter fail so to do, or fail to agree so to do, then the easement of support as to the said party wall created in favour of the person so failing shall thereupon cease and determine AND IT IS FURTHER HEREBY DECLARED AND ACKNOWLEDGED by the parties hereto that the roof common to the buildings constructed on the land described in the first schedule hereto of which the buildings constructed on the land described in the second schedule hereto forms part shall be deemed to be severed



vertically and longitudinally along the boundary of the land hereby conveyed and the adjoining land described in the third and fourth schedules hereto with separate ownership of the severed portions and with cross easements entitling each of the persons entitled to a portion to have the whole roof continued in such manner that each portion supported thereby shall have the support of the whole roof and the respective owners of the roof hereby covenant each with the other that each of them will contribute equally to all necessary reconstruction and repairs thereof and for the purpose of complying with Section 88 of the said Conveyancing Act IT IS HEREBY FURTHER AGREED AND DECLARED between the parties hereto:-

- X-4w
- That
- (a) /the land to which the benefit of this covenant is appurtenant is the land described in schedule number two.
  - (b) The land which is subject to the burden of this covenant is the land described in the third and fourth schedules hereto.
  - (c) The persons having the right to release vary or modify the said covenant shall be the Purchasers their heirs executors administrators and assigns .

X-4w

AND IT IS HEREBY FURTHER DECLARED that the cross easements of support hereby created as to the said roof shall only endure in favour of the respective parties or other the respective owners for the time being of the said lands so long as such persons contribute equally to the cost of all necessary reconstruction and repair of the said roof, and if either party hereto or other the owner for the time being of <sup>any</sup> ~~either~~ of the said portions of land upon being given written notice to contribute equally to any necessary reconstruction or repair of the said roof should for thirty days thereafter fail so to do, or fail to agree so to do, then the easements of support as to the said roof created in favour of the person so failing shall thereupon cease and determine AND THE VENDOR as Covenantor hereby covenants with the Purchasers as Covenantees and each of them in accordance with the provisions of Section 63 of the said Conveyancing Act to produce the documents enumerated in the fifth schedule hereto.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.



THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

*20*  
ALL THAT parcel of land being part of lot fourteen of Section five of the village or township of Taree Manning River in the State of New South Wales containing One rood more or less and bounded on the North East by part of Lot fourteen and running parallel with Manning Street Commencing at a point one chain from the western angle of Manning and Victoria Streets bearing North Westerly two chains and fifty links thence on the North West by one chain or thereabouts along lot thirteen thence on the South West by two chains fifty links or thereabouts along part of lot fifteen to Victoria Street and thence on the South <sup>East</sup> ~~West~~ by one chain North Easterly along Victoria Street to the point of commencement. *P. 40.*

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO.

*x)* ALL THAT piece or parcel of land being Lot 30 of a subdivision of Lot 14A of Registered Plan Number 2264 and being part of Lot 14 in Section 5 in the Town and Parish of Taree County of Macquarie COMMENCING AT a point on the north-western boundary of Victoria Street at the southern corner of land in Application 24318 and bounded thence on the south-east by part of that north-western boundary of Victoria Street being a line bearing  $225^{\circ} 40' 50''$  for  $21' 4\frac{1}{4}''$  and bounded thence on the south-west by a line bearing  $315^{\circ} 40' 50''$  for  $144' 11\frac{1}{8}''$  part of which line traverses the centre of a brick wall  $9\frac{1}{4}''$  thick and bounded thence on the north-west by lines bearing  $45^{\circ} 40' 15''$  for  $16' 4\frac{1}{4}''$  and  $90^{\circ} 37' 20''$  for  $7' 0\frac{1}{8}''$  to the south-western boundary of Certificate of Title Volume 3837 Folio 182 thence on the north-east by part of that boundary of that Certificate of Title and by the south-western boundary of Application 24318 aforesaid being lines bearing  $135^{\circ} 34' 30''$  for  $71' 6\frac{1}{4}''$  and  $135^{\circ} 44' 45''$  for  $68' 5\frac{1}{4}''$  to the point of COMMENCEMENT be the aforesaid dimensions all a little more or less and containing by admeasurement  $11\frac{1}{4}$  perches a little more or less.

THE THIRD SCHEDULE HEREINBEFORE REFERRED TO.

*x)* ALL THAT piece or parcel of land being Lot 31 of a subdivision of Lot 14A of Registered Plan Number 2264 and being part of Lot 14 of Section 5 Town and Parish of Taree County of Macquarie COMMENCING AT a point on the north-western boundary of Victoria Street distant  $21' 4\frac{1}{4}''$  south-westerly from the southern corner of Application Number 24318 and bounded thence on the south-east by part of that north-western boundary of Victoria Street being a line bearing  $225^{\circ} 40' 50''$  for  $20' 5\frac{1}{8}''$  thence on the south-west by a line bearing  $315^{\circ} 35' 50''$  for  $68' 6\frac{1}{2}''$  which line is the centre of a brick wall  $9\frac{1}{4}''$  thick and bearing  $316^{\circ} 04' 20''$  for  $76' 5\frac{1}{2}''$  thence on the north-west by a line bearing  $45^{\circ} 40' 15''$  for  $20'$  thence on the north-east by a line bearing  $135^{\circ} 40' 50''$  for  $144' 11\frac{1}{8}''$  part of which line is



the centre of a brick wall 9¼" thick to the point of COMMENCEMENT be the aforesaid dimensions all a little more or less and containing by admeasurement 10¼ Perches a little more or less.

THE FOURTH SCHEDULE HEREINBEFORE REFERRED TO

ALL THAT piece or parcel of land being Lot 32 of a subdivision of Lot 14A of Registered Plan Number 2264 and being part of Lot 14 in Section 5 in the Town and Parish of Taree County of Macquarie COMMENCING AT a point on the north-western boundary of Victoria Street distant 41' 9¼" south-westerly from the southern corner of Application Number 24318 and bounded thence on the south-east by part of that north-western boundary of Victoria Street being a line bearing 225° 40' 50" for 24' 3½" to the eastern corner of Lot 15 of the said Section 5 and bounded thence on the south-west by part of the north-eastern boundary of that Lot 15 being a line bearing 315° 32' 40" for 31' 7¼" along the face of a brick wall and 315° 22' 10" for 92' 1¼" and 316° 00' for 21' 3¼" thence on the north-west by a line bearing 45° 40' 15" for 25' 2" thence on the north-east by lines bearing 136° 04' 20" for 76' 5½" and 135° 35' 50" for 68' 6½" along the centre of a brick wall 9¼" thick to the point of COMMENCEMENT be the aforesaid dimensions all a little more or less and containing by admeasurement 13 perches a little more or less.

THE FIFTH SCHEDULE HEREINBEFORE REFERRED TO.

EX

31st July 1882	Conveyance Robert Finigan to John Belford Registered Number 986 Book 250.
27th May 1895	Grant of right of way James Robinson Senior to John Belford Registered Number 733 Book 558.
31st July 1900	Conveyance John Belford first part James Robinson second part The Mutual Life Association of Australasia Limited third part Horace Beeton fourth part Registered Number 539 Book 670.
3rd May 1918	Conveyance Horace Beeton to Alice Maud Pankhurst Registered Number 74 Book 1128.
12th July 1929	Mortgage Alice Maud Pankhurst to The Commercial Banking Company of Sydney Limited Registered Number 996 Book 1620.
4th March 1960	Reconveyance The Commercial Banking Company of Sydney Limited to Alice Maud Pankhurst, of last mentioned mortgage.

SIGNED SEALED AND DELIVERED

by the said ALICE MAUD PANKHURST in the presence

of:-  
E.O. Martin  
Solr.  
Taree.

A.M. Pankhurst

Parcel



SIGNED SEALED AND DELIVERED

by the said ALWYN ARTHUR  
BILLINGHAM in the presence

A.A. Billingham

of:-

E.O. Martin  
Solr.  
Taree.

SIGNED SEALED AND DELIVERED

by the said DESMOND ERNEST  
BILLINGHAM in the presence

D.E. Billingham

of:-

E.O. Martin  
Solr.  
Taree.

SIGNED SEALED AND DELIVERED

by the said ELMA JOAN  
BOWSER in the presence of:-

Elma Bowser

E.O. Martin  
Solr.  
Taree.

I, Lillian Doris Murray of Taree Clerk to Messrs. L.O. Martin & Sons of  
Taree, Solicitors being duly sworn make oath and say as follows:-

The writing contained on the seven preceding pages has been compared by  
me with the original Conveyance and is a true copy thereof.

SWORN at Taree this Seventeenth day of May 1960

before me:-  
*[Signature]*  
L. Murray

RECEIVED into the Registration of Deeds Office at Sydney this *ninth*  
day of *June* 1960 at *one* minutes past *the eleven* o'clock  
in the *fore* noon from ARTHUR JOHN DAVIS *Clerk in Bank of New*  
*South Wales, Sydney.*

*[Signature]*  
DEPUTY REGISTRAR.









Ad Valorem Duty  
Paid <sup>(2)</sup>  
£128.15.0.  
N.S.W.  
STAMP DUTIES OFFICE

NEW SOUTH WALES  
7/6 Duly Stamped  
19.4.60  
STAMP DUTY

*No 374 Bk 2527*

THIS DEED made the Eighth day of April One thousand nine hundred and sixty BETWEEN ALICE MAUD PANKHURST the wife of John Pankhurst of Earlwood in the State of New South Wales Retired Fruiterer (hereinafter called the Vendor) of the one part and LYNDON'S PTY. LIMITED a company duly incorporated under the Companies Act of the said State and having its registered office at 141 Victoria Street Taree in the said State (hereinafter called the Purchaser) of the other part WHEREAS the Vendor is seised for an estate in fee simple of the land described in the first schedule hereto as described and comprised in a conveyance dated third day of May 1918 made between Horace Beeton and the Vendor Registered Number 74 Book 1128 AND WHEREAS the Vendor has caused a subdivision to be made of the said land as shown on a plan of survey prepared by Mr. Surveyor W.H.S. McGlashan and dated twenty ninth day of April 1959 AND WHEREAS the said land has erected on it three buildings with two party walls and a common roof which are occupied as shops by tenants of the Vendor each of whom is purchasing from her such part of the said land as is occupied by each of them as a tenant being Lots 30, 31 and 32 and the residue of the land comprised in the said conveyance is being conveyed to the Council of the Municipality of Taree AND WHEREAS there is a right of way giving access to the land described in the first schedule hereto as shown on the said plan of subdivision and granted by indenture dated twenty seventh day of May 1895 made between James Robinson Senior and John Belford Registered Number 63 Book 558 AND WHEREAS the Vendor has agreed with the Council of the Municipality of Taree that that portion of the land owned by her and marked in the said plan of subdivision as Lot 14B being the residue of the land after excluding said Lots 30, 31 and 32 should be conveyed to such Council and in consideration thereof the said Council would grant to her her heirs executors administrators and assigns and all persons authorised by her a right of way for all purposes and at all times to the rear boundary of the said land shown in the said plan as Lots 30, 31 and 32 over such route in Section five of the said town as such Council should determine to Albert Street in the said town and that as part of the consideration therefor the Vendor should convey to such

*Alice Pankhurst*



Council all her right title and interest in the right of way at present shown on the said plan and marked as right of way and giving access to the said land described in the first schedule hereto to Manning Street in the said town AND WHEREAS the Purchaser has fully informed itself of the said right of way to be given by the said Council and has been fully informed of the intention to convey the said existing right of way to Manning Street to the said Council AND WHEREAS the Vendor pending the conveyance of the said land referred to as Lot 14B to the said Council and the establishment of the right of way to be given by it to the Purchaser its successors and assigns and all persons authorised by it or them has agreed to grant to the Purchaser its successors and assigns and all persons authorised by it or them a right of way for all purposes at all times over the strip of land shown hatched red on the said plan and thence by the said right of way at present existing and shown on the said plan at the rear of her premises

to Manning Street aforesaid but so that such right of way shall only subsist until such time as the said right of way to be granted by the said Council has been established as aforesaid AND WHEREAS the Vendor has agreed to sell to the Purchaser the land described in the second schedule hereto subject as hereinafter mentioned together with the benefits of the said rights of ways for the sum of TEN THOUSAND TWO HUNDRED AND EIGHT POUNDS SIX SHILLINGS AND EIGHTPENCE (£10208. 6. 8.) and the Purchaser has agreed to purchase the said land for the said sum NOW THIS DEED WITNESSETH that in pursuance of the said agreement and of the premises and in consideration of the sum of TENTHOUND TWO HUNDRED AND EIGHT POUNDS SIX SHILLINGS AND EIGHTPENCE (£10208. 6. 8.) paid by the Purchaser to the Vendor (the receipt whereof is hereby acknowledged) the Vendor as beneficial owner DOETH HEREBY convey unto the Purchaser in fee simple ALL THAT piece or parcel of land more particularly described in the second schedule hereto TO HOLD unto the Purchaser its successors and assigns in fee simple and being Lot 31 shown on the said plan and signed by the parties hereto for identification TOGETHER with the benefit of a right of way over that portion of the land shown on the said plan lying at the rear of the said Lots 30, 31 and 32 hatched red for all purposes and at all times and together with the benefit of the right of way at present existing and giving access to the Vendor to Manning Street and as shown on the said plan eleven feet wide but so that such rights of ways over the said respective portions of land mentioned shall cease and be of no effect as from the date on which the Council of the Municipality of Taree shall grant to the Purchasers of right of way for all purposes at all times by a route established by them of which the said Lot 14B shall form part to Albert Street and Manning Street in the said town but in the case of the right of way to Manning Street restricted



to human beings on which date all rights hereby created for the benefit of the Purchaser in respect of the said rights of way shall be determined AND for the purpose of complying with the provisions of Section 88 of the Conveyancing Act 1919-1956 in so far as it may be necessary IT IS HEREBY AGREED AND DECLARED by and between the parties hereto:-

- (a) That the land to which the benefit of the said rights of way is appurtenant is the land described in the second schedule hereto being Lot 31 on the said plan of subdivision.
- (b) The land which is subject to the burden of the said right of way is the land hatched red on the said plan.
- (c) The party and persons having the right to release vary or modify the said covenant shall be the purchaser its successors and assigns.

AND the Purchaser hereby covenants with the Vendor that it will when such rights of ways have been given to it by the said Council forthwith convey surrender or take such other proper action to give up and surrender and pass over to the Council all its rights title and interest in the said rights of ways hereinbefore referred to AND THE parties hereto and each of them hereby acknowledge and declare that the said land is hereby conveyed subject to the following restrictions covenants and declarations on their part and each of their parts herein contained that is to say IT IS HEREBY DECLARED that the walls as shown in the said plan dividing the land hereby conveyed from the adjoining lands being Lots 30 and 32 on the said plan of subdivision and more particularly described in the third schedule hereto and every extension thereof shall be deemed party walls as defined in the Conveyancing Act 1919-1956 Section 181B and the respective parties hereto shall contribute equally to all necessary reconstruction and repairs of such party walls AND the purchaser DOES HEREBY for itself and its successors and assigns covenant with the Vendor her heirs executors administrators and assigns that it and each of them shall contribute equally to all necessary reconstruction and repairs of the said party walls as shown and designated as such in the said plan of subdivision AND the Vendor for herself her heirs executors administrators and assigns as the owner of said Lots 30 and 32 described in the third schedule hereto hereby covenants with the Purchaser its successors and assigns that she shall contribute



equally to all necessary reconstruction and repairs of the said party walls AND for the purpose of complying with the provisions of Section 88 of the said Conveyancing Act in so far as it may be necessary IT IS HEREBY AGREED AND DECLARED by and between the parties hereto:-

- (a) That the land to which the benefit of the covenants is applicable is the land described in schedules numbers 2 and 3 hereto and shown on the said plan as Lots 30, 31 and 32.
- (b) The land which is subject to the burden of the said covenants is that part of the said Lots 30, 31 and 32 on which the said party walls are erected as shown in the said plan and part of which is included in the said land described in schedule two hereof and the other part is included in the said land which is the said Lots 30 and 32 described in the third schedule hereto.
- (c) The party and persons having the right to release vary or modify the said covenants shall be the Vendor her heirs executors administrators and assigns and the Purchaser its successors and assigns.

AND IT IS HEREBY FURTHER DECLARED that the cross easements of support referred to in Sections 181-B shall only endure in favour of the respective parties or other the respective owners for the time being of the said lands so long as such persons or corporate body as the case may be contribute equally to the cost of all necessary reconstruction and repair of the said party walls and if either party hereto or other the owner for the time being of any of the said portions of land upon being given written notice to contribute equally to any necessary reconstruction or repair of the said party walls should for thirty days thereafter fail so to do, or fail to agree so to do, then the easement of support as to the said party wall created in favour of the person or corporate body as the case may be so failing shall thereupon cease and determine. AND IT IS FURTHER HEREBY DECLARED AND ACKNOWLEDGED by the parties hereto that the roof common to the buildings constructed on the land described in the first schedule hereto of which the buildings constructed on the land described in the second schedule/<sup>hereto</sup> forms part shall be deemed to be severed vertically and longitudinally along the boundary of the land hereby conveyed and the adjoining land described in the third schedule hereto with separate ownership of the severed portions and with cross easements entitling each of the persons and or parties entitled to a portion to have the whole roof continued in such manner that each portion supported thereby shall have the support of the



whole roof and the respective owners of the roof hereby covenant each with the other that each of them will contribute equally to all necessary reconstruction and repairs thereof and for the purpose of complying with Section 88 of the said Conveyancing Act IT IS HEREBY FURTHER AGREED AND DECLARED between the parties hereto:-

- (a) The land to which the benefit of this covenant is appurtenant is the land described in schedule Number two.
- (b) The land which is subject to the burden of this covenant is the land described in the third schedule hereto.
- (c) The party and persons having the right to release vary or modify the said covenant shall be the Purchaser its successors and assigns

AND IT IS HEREBY FURTHER DECLARED that the cross easements of support hereby created as to the said roof shall only endure in favour of the respective parties or other the respective owners for the time being of the said lands so long as such persons contribute equally to the cost of all necessary reconstruction and repair of the said roof and if either party hereto or other the owner for the time being of any of the said portions of land upon being given written notice to contribute equally to any necessary reconstruction or repair of the said roof should for thirty days thereafter fail so to do, or fail to agree so to do then the easements of support as to the said roof created in favour of the person or corporate body as the case may be so failing shall thereupon cease and determine AND THE VENDOR AS COVENANTOR hereby covenants with the Purchaser as Covenantee in accordance with the provisions of Section 63 of the said Conveyancing Act to produce the documents enumerated in the fourth schedule hereto.

IN WITNESS the party hereto of the one part has hereunto set her hand and seal and the party hereto of the other part has hereunto affixed its seal the day and year first hereinbefore written.

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO

ALL THAT parcel of land being part of lot fourteen of Section five of the village or Township of Taree Manning River in the State of New South Wales containing One rood more or less and bounded on the North East by



part of Lot fourteen and running parallel with Manning Street Commencing at a point one chain from the western angle of Manning and Victoria Streets bearing North Westerly two chains and fifty links thence on the North West by one chain or thereabouts along lot thirteen thence on the South West by two chains fifty links or thereabouts along part of Lot fifteen to Victoria Street and thence on the South ~~West~~<sup>East</sup> by one chain North Easterly along Victoria Street to the point of commencement.

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO

ALL THAT piece or parcel of land being Lot 31 of a subdivision of Lot 14A of Registered Plan Number 2264 and being part of Lot 14 of Section 5 Town and Parish of Taree County of Macquarie COMMENCING at a point on the north-western boundary of Victoria Street distant 21' 4 $\frac{1}{4}$ " south-westerly from the southern corner of Application Number 24318 and bounded thence on the south-east by part of that north-western boundary of Victoria Street being a line bearing 225° 40' 50" for 20' 5 $\frac{1}{2}$ " thence on the south-west by a line bearing 315° 35' 50" for 68' 6 $\frac{1}{2}$ " which line is the centre of a brick wall 9 $\frac{3}{4}$ " thick and bearing 316° 04' 20" for 76' 5 $\frac{1}{2}$ " thence on the north-west by a line bearing 45° 40' 15" for 20' thence on the north-east by a line bearing 135° 40' 50" for 144' 11 $\frac{1}{8}$ " part of which line is the centre of a brick wall 9 $\frac{3}{4}$ " thick to the point of COMMENCEMENT be the aforesaid dimensions all a little more or less and containing by admeasurement 10 $\frac{1}{4}$  perches a little more or less.

THE THIRD SCHEDULE HEREINBEFORE REFERRED TO.

ALL THAT piece or parcel of land being Lot 30 of a subdivision of Lot 14A of Registered Plan Number 2264 and being part of Lot 14 in Section 5 in the Town and Parish of Taree County of Macquarie COMMENCING AT a point on the north-western boundary of Victoria Street at the southern corner of land in Application 24318 and bounded thence on the south-east by part of that north-western boundary of Victoria Street being a line bearing 225° 40' 50" for 21' 4 $\frac{1}{4}$ " and bounded thence on the south-west by a line bearing 315° 40' 50" for 144' 11 $\frac{1}{8}$ " part of which line traverses the centre of a brick wall 9 $\frac{3}{4}$ " thick and bounded thence on the north-west by lines bearing 45° 40' 15" for 16' 4 $\frac{1}{4}$ " and 90° 37' 20" for 7' 0 $\frac{1}{8}$ " to the south-western boundary of Certificate of Title Volume 3837 Folio 182 thence on the north-east by part of that boundary of that Certificate of Title and by the south-western boundary of Application 24318 aforesaid being lines bearing 135° 34' 30" for 71' 6 $\frac{1}{4}$ " and 135° 44' 45" for 68' 5 $\frac{1}{4}$ " to the point of COMMENCEMENT be the aforesaid dimensions all a little more or less and containing by admeasurement 11 $\frac{1}{4}$  perches a little more or less AND ALL THAT piece or parcel of land being Lot 32 of a subdivision of Lot 14A of Registered Plan Number



2264 and being part of Lot 14 in Section 5 in the Town and Parish of Taree County of Macquarie COMMENCING AT a point on the north-western boundary of Victoria Street distant 41' 9 $\frac{1}{2}$ " south-westerly from the southern corner of Application Number 24318 and bounded thence on the south-east by part of that north-western boundary of Victoria Street being a line bearing 225° 40' 50" for 24' 3 $\frac{1}{2}$ " to the eastern corner of Lot 15 of the said Section 5 and bounded thence on the south-west by part of the north-eastern boundary of that Lot 15 being a line bearing 315° 32' 40" for 31' 7 $\frac{1}{4}$ " along the face of a brick wall and 315° 22' 10" for 92' 1 $\frac{1}{4}$ " and 316° 00' for 21' 3 $\frac{1}{4}$ " thence on the north-west by a line bearing 45° 40' 15" for 25' 2" thence on the north-east by lines bearing 136° 04' 20" for 76' 5 $\frac{1}{2}$ " and 135° 35' 50" for 68' 6 $\frac{1}{2}$ " along the centre of a brick wall 9 $\frac{1}{4}$ " thick to the point of COMMENCEMENT be the aforesaid dimensions all a little more or less and containing by admeasurement 13 perches a little more or less.

THE FOURTH SCHEDULE HEREINBEFORE REFERRED TO

31st July	1882	Conveyance Robert Finigan to John Belford Registered Number 986 Book 250
27th May	1895	Grant of right of way James Robinson Senior to John Belford Registered Number 733 Book 558
31st July	1900	Conveyance John Belford first part James Robinson second part The Mutual Life Association of Australasia Limited third part Horace Beeton fourth part Registered Number 539 Book 670
3rd May	1918	Conveyance Horace Beeton to Alice Maud Pankhurst Registered Number 74 Book 1128
12th July	1929	Mortgage Alice Maud Pankhurst to the Commercial Banking Company of Sydney Limited Registered Number 996 Book 1620
4th March	1960	Reconveyance The Commercial Banking Company of Sydney Limited to Alice Maud Pankhurst of last mentioned mortgage.

SIGNED SEALED AND DELIVERED

by the said ALICE MAUD  
PANKHURST in the presence  
of:-

E.O. Martin  
Solr.  
Taree.

}  
A.M. Pankhurst  
}



The Common Seal of Lyndon's Pty. Limited was hereunto affixed in pursuance of a resolution of the Board of Directors passed on the Thirtieth day of April 1960 and by the authority of the Director whose signature is set out opposite hereto and in the presence of the Secretary of the Company whose signature is set out hereunder:-)

Lyndon's Pty. Limited  
Common Seal

R. Lyndon  
Director.

F. Lyndon  
Secty.

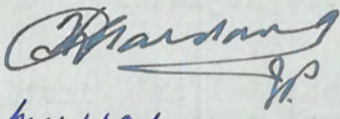
Draper.  
Taree.

I, Lillian Doris Murray of Taree Clerk to Messrs. L.O. Martin & Sons of Taree Solicitors being duly sworn make oath and say as follows:-

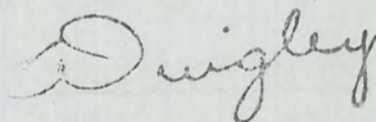
The writing contained on the seven preceding pages has been compared by me with the original Conveyance and is a true copy thereof.

SWORN at Taree this Seventeenth day of May 1960

before me:-

  
L. Murray.

RECEIVED into the Registration of Deeds Office at Sydney this  
sixth day of June 1960 at <sup>11/2</sup> minutes past/to eleven  
o'clock in the fore noon from Ruby Donney,  
Clerk to Messrs. Galloway & Co., of Sydney Law Stationers.



DEPUTY REGISTRAR.



11  
No 733 Book 558 Grant of Right of Way No 51

# This Indenture

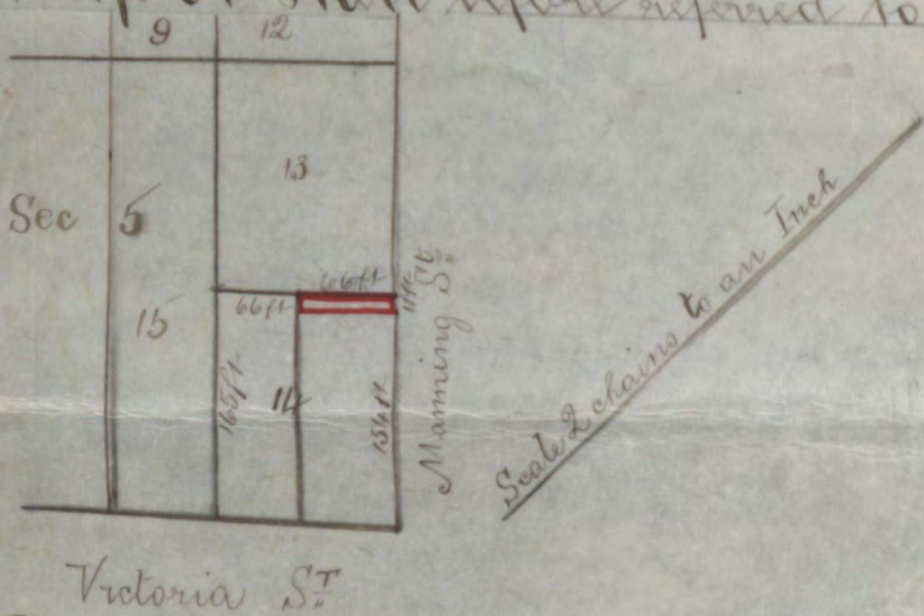
made the twenty seventh day of May  
 in the year of our Lord one thousand eight hundred and ninety  
 five Between James Robinson Senior of Dore in the  
 Colony of New South Wales Gentleman of the one part and  
 John Belford of Dore Estate near Dore aforesaid Farmer  
 of the other part Whereas the said James Robinson Senior and  
 the said John Belford purchased from Robert Kingan they of Dore  
 aforesaid Stockkeeper in the year one thousand eight hundred  
 and eighty two each a moiety or half part of Lot 11 of section  
 5 situated in Victoria Street and Manning Street Dore  
 aforesaid containing two roads more or less and a Right of  
 way from Manning Street of seven feet wide at rear of said  
 James Robinson Senior Allotment was inadvertently omitted  
 from the deed of conveyance to said John Belford executed by  
 the said Robert Kingan to him and the whole of each moiety  
 or half part was conveyed to both parties without granting such  
 Right of way to said John Belford And whereas the said  
 John Belford hath requested the said James Robinson Senior  
 to grant to him the said John Belford a Right of way of  
 seven feet wide at rear of his Allotment in order to give said  
 John Belford access to his portion of said Allotment purchased  
 by him which he hath consented and agreed to do in manner  
 hereinafter mentioned Now this Indenture witnesseth  
 that in pursuance of the premises and of the said request  
 and in consideration of five shillings paid by the said  
 John Belford to the said James Robinson Senior (the receipt  
 whereof is hereby acknowledged) the said James Robinson  
 Senior doth hereby grant unto the said John Belford his heirs  
 and assigns full and free Right and liberty of way and  
 passage at all times for himself and themselves and his and  
 their tenants and servants and others authorized by him or  
 them with or without horses cattle carts and carriages of all  
 descriptions in over and along to and from a piece of land of  
 the said James Robinson Senior fronting Manning Street  
 situated in the Parish and Town of Dore aforesaid in the  
 County of Macquarie at the rear of part of Allotment 11  
 of section number 5 of said Town delineated and colored  
 and in the map or plan drawn at the foot of these presents  
 now being the land of the said James Robinson Senior  
 in order to give the said John Belford access to ingress regress  
 and egress to his moiety of lot 11 of section 5 aforesaid from  
 Manning Street aforesaid along said Right of way  
 hold the said right of way unto and to the use of the said John  
 Belford his heirs and assigns forever for the time being of the  
 piece of land colored red on the said map or plan for all  
 purposes connected with the use occupation and enjoyment  
 of the said Right of way and of the said piece of land of the  
 said John Belford adjoining thereto and accessible through the  
 same by means of the said Right of way And the said James  
 Robinson Senior doth hereby for himself his heirs executors and  
 administrators covenant with the said John Belford his heirs  
 and assigns that notwithstanding anything by him the said  
 James Robinson Senior done or knowingly suffered to the  
 contrary he the said James Robinson Senior now hath good  
 right to grant the said Right of way in manner aforesaid

John Belford



And that the said John Belford his heirs and assigns owners for the time being as aforesaid shall and may at all times hereafter peaceably and quietly use and enjoy the said Right without any lawful eviction interruption or disturbance whatsoever of from or by the said James Robinson senior or any person or persons lawfully or equitably claiming from or under him And further that the said James Robinson senior and all other persons lawfully or equitably claiming as aforesaid shall and will at all times hereafter upon the request and at the cost of the said John Belford his heirs or assigns owners for the time being as aforesaid do and execute or cause to be done and executed such acts and deeds and assurances for the further and more effectually assuring the said Right of way unto and to the use of the said John Belford his heirs and assigns in manner aforesaid as shall or may be reasonably required **IN WITNESS** whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written

Map or Plan before referred to



Signed Sealed and Delivered  
 by the said James Robinson senior  
 in the presence of  
Alfred Castle  
 Solicitor

James Robinson (seal)

New South Wales  
 Do wit

On this thirtieth day of June in the year one thousand eight hundred and ninety five Alfred William Castle of Dare in the Colony of New South Wales Solicitor being duly sworn maketh oath and saith as follows the above and next preceding page are and contain a true copy of the contents of the Original Duplicates of conveyance the same having been carefully examined therein by me the signature John Belford signed at the foot of the first page hereof is of the proper handwriting of John Belford one of the parties to said Original deed

Sworn by the Deponent on the day } Alfred Castle  
 first above mentioned at Dare }  
 before me Alfred Castle  
 a Commissioner for Affidavits

Delivered into the office for the Registration of Deeds at Sydney this  
 15th day of June AD 1895 at 2 o'clock in the  
 forenoon from Percy Wilson of Sydney Clerk to  
 the Registrar







## **Certificate under Section 10.7**

### **Environmental Planning & Assessment Act 1979**

Property Key:	16995	Cert No:	20191347
Ref:	TJS:MT 190116:13666	Page No:	1
Date:	19 February 2019	Debtor/Receipt No:	

Stacks The Law Firm  
PO Box 234  
TAREE NSW 2430

Property Description: 137-139 Victoria Street Taree NSW 2430  
**Lot 30 DP 222606**

### **Information Provided Pursuant to Section 10.7(2) of the Act**

This certificate contains information that Council is aware of through its records and environmental plans, along with data supplied by the State Government and other external agencies. The details contained in this certificate are limited to that required by section 10.7(2) of the Environmental Planning and Assessment Act 1979 and Regulations 2000.

The accuracy and currency of details provided by agencies external to Council have not been verified by Mid-Coast Council and should be verified by the applicant.

### **1 Names of Relevant Planning Instruments and DCPs**

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

#### **Local Environmental Plans(s):**

Greater Taree Local Environmental Plan 2010 applies to the carrying out of development on the land.

#### **State Environmental Planning Policies:**

State Environmental Planning Policy No 1 – Development Standards  
State Environmental Planning Policy No 21 – Caravan Parks  
State Environmental Planning Policy No 30 – Intensive Agriculture  
State Environmental Planning Policy No 33 – Hazardous and Offensive Development  
State Environmental Planning Policy No 36 – Manufactured Home Estates  
State Environmental Planning Policy No 44 – Koala Habitat Protection  
State Environmental Planning Policy No 50 – Canal Estate Development  
State Environmental Planning Policy No 55 – Remediation of Land  
State Environmental Planning Policy No 62 – Sustainable Aquaculture  
State Environmental Planning Policy No 64 – Advertising and Signage  
State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development  
State Environmental Planning Policy (Affordable Rental Housing) 2009  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Coastal Management) 2018  
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017  
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008  
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004  
State Environmental Planning Policy (Infrastructure) 2007  
State Environmental Planning Policy (Integration and Repeals) 2016  
State Environmental Planning Policy (Major Development) 2005  
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007  
State Environmental Planning Policy (State and Regional Development) 2011  
State Environmental Planning Policy (Temporary Structures) 2007  
State Environmental Planning Policy (Urban Renewal) 2010  
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy applies to the specifically designated non-rural zones under clause 5 of the Policy.  
Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016

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

The land IS affected by Coastal Management SEPP 2018 (whole of lot).

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

Development Control Plan 2010 applies to the carrying out of development on the land.

## **2 Zoning and Land Use under Relevant LEPs**

- (a) the identity of the zone/s applying to the land:

B3 Commercial Core

- (b) the purposes for which Greater Taree Local Environmental Plan 2010 provides that development may be carried out within the zone without the need for development consent,

See Part 2 (Permitted or Prohibited Development), Part 3 (Exempt & Complying Development) and Schedule 2 (Exempt Development) of the Greater Taree Local Environmental Plan 2010,

- (c) the purposes for which Greater Taree Local Environmental Plan 2010 provides that development may not be carried out within the zone except with development consent,

See Part 2 (Permitted or Prohibited Development), Part 3, (Exempt & Complying Development), Schedule 1 (Additional Permitted Uses) and Schedule 3 (Complying Development) of the Greater Taree Local Environment Plan 2010,

- (d) the purposes for which Greater Taree Local Environmental Plan 2010 provides that development is prohibited within the zone,

See Part 2 (Prohibited Development) of the Greater Taree Local Environmental Plan 2010.



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

There are NO development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house.

- (f) whether the land includes or comprises critical habitat,

The land DOES NOT comprise critical habitat.

- (g) whether the land is in a conservation area (however described),

The land is NOT in a conservation area.

- (h) whether an item of environmental heritage (however described) is situated on the land.

There are NO items of environmental heritage situated on the land.

## **2A Zoning and Land Use under State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

Not applicable.

## **3 Complying Development**

- (1) The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) If complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the reasons why it may not be carried out under those clauses.

### **Rural Housing Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Rural Housing Code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Housing Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Housing Code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying*



*Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Greenfield Housing Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Greenfield Housing Code **IS NOT** applicable on this land.

### **General Development Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, General Development code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Housing Alterations Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Housing Alterations Code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Commercial and Industrial Alterations Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Commercial and Industrial Alterations code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

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

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Commercial and Industrial (New Buildings and Additions) code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying*

*Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Container Recycling Facilities Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Container Recycling Facilities code **may** be carried out on land Zoned B1, B2, B3, B4, B5, B6, IN1, IN2, IN4 OR SP3 in Greater Taree LEP2010.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Subdivision Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivision code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Demolition Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Demolition Code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

### **Fire Safety Code**

- (1) Complying development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Fire Safety code **may** be carried out on the land.

*Disclaimer: This certificate only addresses matters raised in Clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to comply with these provisions may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid.*

## **4 Coastal Protection**

The Coastal Protection Act 1979 is repealed.





#### **4A Certain Information Relating to Beaches and Coasts**

Repealed

#### **4B Annual Charges under Local Government Act 1993 for Coastal Protection Services that Relate to Existing Coastal Protection Works**

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

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

The owner (or any previous owner) of the land HAS NOT consented in writing to the land being subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works.

#### **5 Mine Subsidence**

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

The land IS NOT within a mine subsidence district within the meaning of Section 15 of the Mine Subsidence Compensation Act, 1961.

#### **6 Road Widening and Road Realignment**

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

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

The land IS NOT affected by any road widening or road realignment under either Division 2 of Part 3 of the Roads Act 1993; any environmental planning instrument; or any resolution of Council.

#### **7 Council and other Public Authority Policies on Hazard Risk Restrictions**

Whether or not the land is affected by a policy:

- (a) adopted by council, or
- (b) adopted by any other public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council,

that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

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

The land IS NOT affected by a policy adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to



in the planning certificates issued by the Council, that restricts the development of the land because of the likelihood of landslip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk.

### **7A Flood Related Development Controls Information**

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

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

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

Development of *critical and sensitive land use facilities* (as referred to in Part E4.1 and E4.2 of Greater Taree DCP 2010) ARE subject to flood related development controls.

- (3) Words and expressions in this clause have the same meanings as in the Standard Instrument.

### **8 Land Reserved for Acquisition**

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

Greater Taree LEP 2010 DOES NOT make provision for the acquisition of the land by a public authority as referred to in S27 of the Act.

### **9 Contributions Plans**

The name of each contributions plan applying to the land.

The Greater Taree Section 94 Contributions Plan 2016 applies to this land if developed for residential purposes (includes urban and rural subdivisions and dwellings). See plan for exceptions.

The Greater Taree Section 94A Contributions Plan 2016 applies to this land if developed for industrial, commercial, tourist and visitor accommodation and all other non-residential development costing more than \$200,000. See plan for exceptions.

### **9A Biodiversity Certified Land**

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

The land IS NOT biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016*.

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



## 10 Biodiversity Stewardship Sites

If the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016*, a statement to that effect (but only if the council has been notified of the existence of the agreement by the Chief Executive of the Office of Environment and Heritage).

The land IS NOT a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016*.

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

## 10A Native vegetation clearing set asides

If the land contains a set aside area under section 60ZC of the Local Land Services Act 2013, a statement to that effect (but only if the council has been notified of the existence of the set aside area by Local Land Services or it is registered in the public register under that section).

The land DOES NOT contain a set aside area under section 60ZC of the *Local Land Services Act 2013*.

## 11 Bushfire Prone Land

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

The land IS NOT shown as bushfire prone land on the map marked 'Greater Taree LGA - Bushfire Prone Land Map', endorsed by the NSW Rural Fire Service.

## 12 Property Vegetation Plans

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

A property vegetation plan under the Native Vegetation Act 2003 DOES NOT apply to the land.

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

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

The land IS NOT subject to an order made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

## 14 Directions under Part 3A

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

Part 3A of the Environmental Planning and Assessment Act 1979 has been repealed.





## **15 Site Compatibility Certificates and Conditions for Seniors Housing**

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

- (a) a statement of whether there is a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land and, if there is a certificate, the statement is to include
  - (i) the period for which the certificate is current, and
  - (ii) that a copy may be obtained from the head office of the Department, and
- (b) a statement setting out any terms of a kind referred to in clause 18 (2) of that Policy that have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land.

There is NO current site compatibility certificate (seniors housing) of which Council is aware, in respect of proposed development on the land.

## **16 Site Compatibility Certificates for Infrastructure, Schools or TAFE establishments**

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

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

There is NO valid site compatibility certificate (infrastructure) or site compatibility certificate (schools or TAFE establishments), of which Council is aware, in respect of proposed development on the land.

## **17 Site Compatibility Certificates and Conditions for Affordable Rental Housing**

- (1) A statement of whether there is a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land and, if there is a certificate, the statement is to include:
  - (a) the period for which the certificate is current, and
  - (b) that a copy may be obtained from the head office of the Department.
- (2) A statement setting out any terms of a kind referred to in clause 17 (1) or 38 (1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as a condition of consent to a development application in respect of the land.

There is NO current site compatibility certificate (affordable rental housing), of which Council is aware, in respect of proposed development on the land.

## **18 Paper subdivision information**

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



There is NO development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot.

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

There is NO subdivision order that applies to the land.

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

## 19 Site verification certificates

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

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

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

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

There is NO current site verification certificate, of which council is aware, in respect of the land.

## 20 Loose-fill asbestos insulation

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

There is NO residential dwelling erected on this land that has been identified in the Loose-Fill Asbestos Insulation Register as containing loose-fill asbestos ceiling insulation.

## 21 Affected building notices and building product rectifications orders

- (1) A statement of whether there is any affected building notice of which the council is aware that is in force in respect of the land.
- (2) A statement of:
- (a) whether there is any building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with, and
- (b) whether any notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding.

There is NO affected building notice or building product rectification order, of which council is aware, in respect of the land.

- (3) In this clause:

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



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

**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 (or part of the land) to which the certificate relates is significantly contaminated land within the meaning of that Act,

The land to which the certificate relates IS NOT significantly contaminated land within the meaning of that Act.

- (b) that land to which the certificate relates is subject to a management order within the meaning of that Act,

The land to which the certificate relates IS NOT subject to a management order within the meaning of that Act.

- (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act,

The land to which the certificate relates IS NOT the subject of an approved voluntary management proposal within the meaning of that Act.

- (d) that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act,

The land to which the certificate relates IS NOT subject to an ongoing maintenance order within the meaning of that Act.

- (e) that the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act,

The land to which the certificate relates IS NOT the subject of a site audit statement within the meaning of that Act.

**For further information, please contact the Customer Service Department (02) 6591 7222**

Stacks The Law Firm Taree  
Po Box 234  
TAREE NSW 2430

### **Owner Details**

Omid Darzi

### **Property Details**

Lot 30 DP 222606

### **Property Address**

137-139 Victoria St TAREE NSW 2430

### **BUILD OVER SEWER**

As requested the Plan of House Drainage for the above property is attached. These notes are intended to provide information relating to this property. Applicants are requested to ensure that intending purchasers are made fully aware of all aspects of both these notes and the attached Plan. Please note the following important points:-

1. MidCoast Council is aware that an existing building has been built over the sewer on this property. Council's current policy does not allow the building of any structure over its sewers.
2. The existence of a building over Council's sewer does not indicate that it has been approved or inspected by MidCoast Council. Any alterations or additions to existing structures or further development on this site will require compliance with Council's policies.
3. MidCoast Council's policy "Building over or adjacent to Watermains, Sewers or Sewerage Rising Mains" basically prohibits any new buildings to be erected closer than 1.5 meters to a Council pipe. This policy also requires special footings to be used when a building is within the 'Zone of Influence' of a sewer.
4. Residents, builders, developers etc. should note that the existence of a sewer, watermain or sewerage rising main can, and will, prohibit the extent of a development that will be permitted on a block. In the case of sewers, this also applies to a sewer located close to the boundary even if it is within an adjacent block. These restrictions apply to all types of building including houses, garages, sheds, carports etc.
5. Please contact MidCoast Council if you need any clarification on the implication of this policy. Full details are available upon request.
6. This Plan indicates the approximate location of existing buildings and pipelines. The issue of the diagram does not imply that the existing plumbing has been inspected by MidCoast Council nor that it complies with any standard or code.
7. The information on this Plan has been supplied by other parties and MidCoast Council will not be held responsible for the accuracy of any details shown. We do, however, endeavour to ensure that drainage diagrams are as accurate as practical when issued.
8. The attached Plan indicates the approximate location of Council's sewers only in relation to the abovementioned land.

9. It is an offence under the Local Government Act to discharge any rain water or surface water into Council's sewers.
10. Development charges will be applied if any new development on this land has a capacity of more than 1 equivalent tenement (e.g. Development charges will apply for the erection of 2 or more villas, flats, etc. as opposed to one house).
11. In the case of non-domestic premises, both new and existing developments may require a Liquid Trade Waste approval. The issue of this Plan does not imply that any such Liquid Trade Waste approval currently exists. Further information should be obtained from MidCoast Council. It is an offence to discharge sewage, other than of a domestic nature, into a Council sewer without approval.
12. This Plan is issued in accordance with section 17, 18 and 19 of the Local Government (Water Services) Regulations 1999. These notes form part of the Plan and must remain attached it. Any Plan of House Drainage without these notes should not be considered as a true copy.

If you have any enquiries regarding this letter please telephone 1300 133 455

Dated: 27/02/2019

Director Water Services



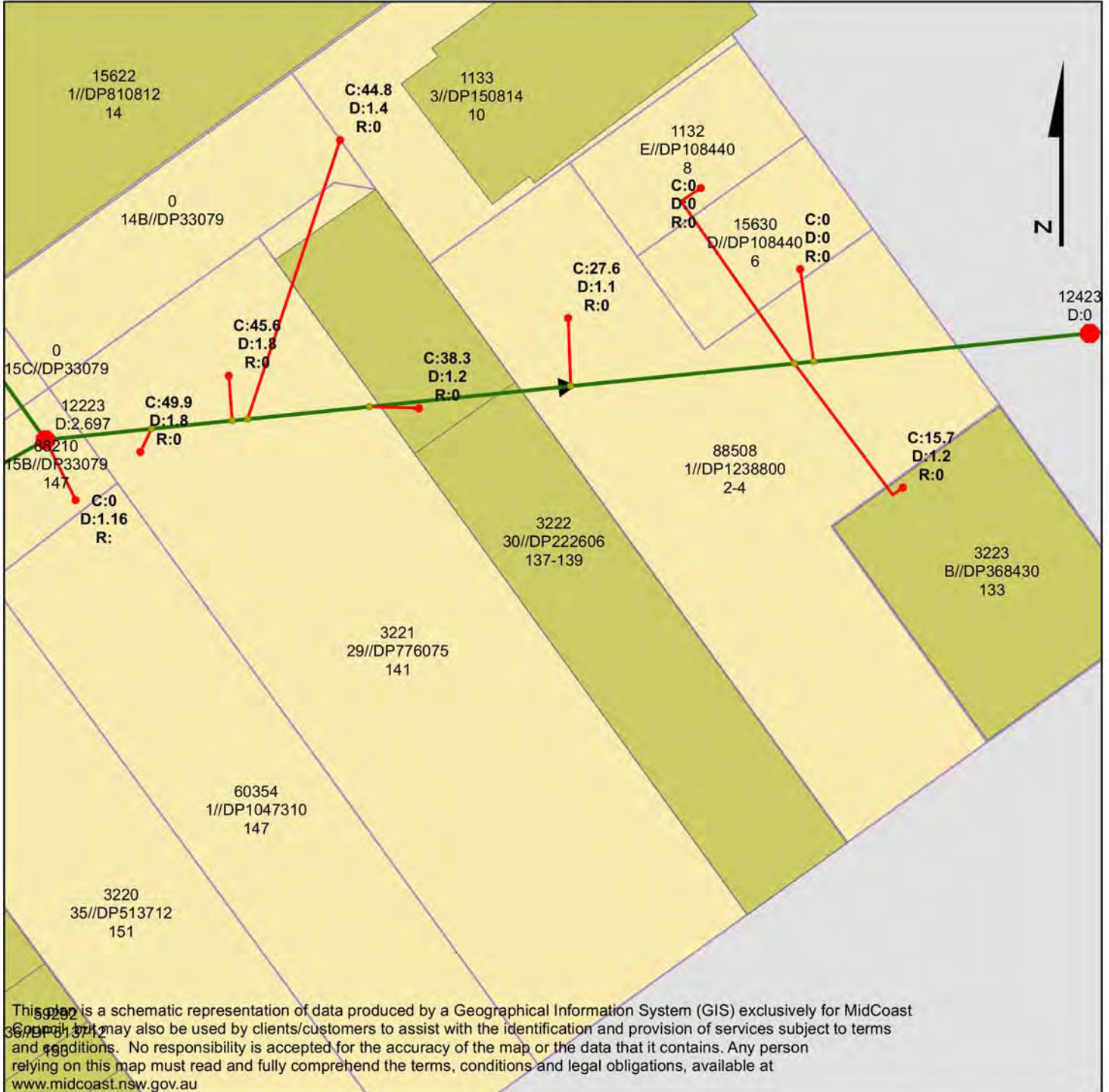
**Please Note:**  
 Midcoast Water Services does not hold any Internal Drainage information for this property.



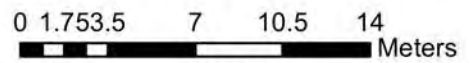
**Sewer Drainage Diagram 3222**

**Lot 30 Section Plan DP222606**

**Address 137-139 Victoria St TAREE NSW 2430**



This diagram is a schematic representation of data produced by a Geographical Information System (GIS) exclusively for MidCoast Council. It may also be used by clients/customers to assist with the identification and provision of services subject to terms and conditions. No responsibility is accepted for the accuracy of the map or the data that it contains. Any person relying on this map must read and fully comprehend the terms, conditions and legal obligations, available at [www.midcoast.nsw.gov.au](http://www.midcoast.nsw.gov.au)



1:300

**Legend**

- Manholes
- Service Connection
- Fitting
- Lateral Lines
- Mains**
- Gravity Main
- ▶ Flow Direction

Sewer Junction existing at 322456 38.3 metres from D.S.M.H.  
 Depth of Junction approx. 1.2m  
 Depth of Riser approx. m

INFOTRACK PTY LIMITED  
DX Box 578  
SYDNEY

**Land Tax Certificate under section 47 of the *Land Tax Management Act, 1956*.**

This information is based on data held by Revenue NSW.

---

Land ID	Land address	Taxable land value
D222606/30	137-139 VICTORIA ST TAREE 2430	\$144 667

There is **no land tax** (including surcharge land tax) charged on the land up to and including the 2019 tax year.

---

Yours sincerely,



Stephen R Brady

Chief Commissioner of State Revenue

## Important information

### Who is protected by a clearance certificate?

A clearance certificate states whether there is any land tax (including surcharge land tax) owing on a property. The certificate protects a purchaser from outstanding land tax liability by a previous owner, however it does not provide protection to the owner of the land.

### When is a certificate clear from land tax?

A certificate may be issued as 'clear' if:

- the land is not liable or is exempt from land tax
- the land tax has been paid
- Revenue NSW is satisfied payment of the tax is not at risk, or
- the owner of the land failed to lodge a land tax return when it was due, and the liability was not detected at the time the certificate was issued.

**Note:** A clear certificate does not mean that land tax was not payable, or that there is no land tax adjustment to be made on settlement if the contract for sale allows for it.

### When is a certificate not clear from land tax?

Under section 47 of the *Land Tax Management Act 1956*, land tax is a charge on land owned in NSW at midnight on 31 December of each year. The charge applies from the taxing date and does not depend on the issue of a land tax assessment notice. Land tax is an annual tax so a new charge may occur on the taxing date each year.

### How do I clear a certificate?

The outstanding tax must be paid to clear a certificate. To do this, follow the steps shown on the certificate or contact Revenue NSW. Please allow 10 working days for your request to be processed.

### How do I get an updated certificate?

A certificate can be updated by using our online clearance certificate service at [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au), or by re-processing the certificate through your Client Service Provider (CSP).

Please allow sufficient time for any payment to be processed prior to requesting a new version of the clearance certificate.

### Land value, tax rates and thresholds

The taxable land value shown on the clearance certificate is the value used by Revenue NSW when assessing land tax. Details on land tax rates and thresholds are available at [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au).

## Contact details



Read more about Land Tax and use our online service at [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au)



1300 139 816\*



Phone enquiries  
8:30 am - 5:00 pm, Mon. to Fri.



[landtax@revenue.nsw.gov.au](mailto:landtax@revenue.nsw.gov.au)

\* Overseas customers call +61 2 9761 4956  
Help in community languages is available.



**LEASE**  
New South Wales  
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

**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.

**STAMP DUTY**

Revenue NSW use only

**(A) TORRENS TITLE**

Property leased  
Whole Folio Identifier 30/222606

**(B) LODGED BY**

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE <b>L</b>
	Reference:	

**(C) LESSOR**

Omid Darzi

The lessor leases to the lessee the property referred to above.

**(D)**

Encumbrances (if applicable):

**(E) LESSEE**

Darzi Group Pty Limited ACN 153 481 479  
**TENANCY:**

**(G)**

- TERM** Five (5) Years
- COMMENCING DATE** 15 February 2019
- TERMINATING DATE** 14 February 2024
- With ~~an~~ **OPTION TO RENEW** for a period of Five (5) Years plus Five (5) Years set out in clause 13 & 14 of Annexure A hereto.
- With an **OPTION TO PURCHASE** set out in clause N.A. of N.A.
- Together with and reserving the **RIGHTS** set out in clause N.A. of N.A.
- Incorporates the provisions or additional material set out in **ANNEXURE(S)** N.A. hereto.
- Incorporates the provisions set out in N.A.  
No. N.A.
- The **RENT** is set out in item No. 1 of Annexure A hereto.

DATE 15 APR 2019

(H) I certify I am an eligible witness and that the lessor signed this dealing in my presence. [See note\* below].

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

Signature of witness:

Signature of lessor:

Name of witness:  
Address of witness:

  
TIMOTHY JOHN STACK  
SOLICITOR  
207 Victoria St., TAREE NSW 2430


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

Company: Darzi Group Pty Limited ACN 153 481 479  
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person:  
Office held:

Name of authorised person: Omid Darzi  
Office held: Sole Director/Secretary

(I) STATUTORY DECLARATION\*

I solemnly and sincerely declare that—

- 1. The time for the exercise of option to \_\_\_\_\_ in expired lease No. \_\_\_\_\_ has ended; and
- 2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at \_\_\_\_\_ in the State of New South Wales on \_\_\_\_\_

in the presence of \_\_\_\_\_ of \_\_\_\_\_

- Justice of the Peace (J.P. Number: \_\_\_\_\_)  Practising Solicitor
- Other qualified witness [specify] \_\_\_\_\_

# who certifies the following matters concerning the making of this statutory declaration by the person who made it:

- 1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and
- 2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was a \_\_\_\_\_ [Omit ID No.]

Signature of witness:

Signature of applicant:

\* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. # If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

## Annexure A

- 1.1 RENT** The Lessee must pay the annual rental specified in **Item 1** of the Schedule hereto as increased from time to time in accordance with this Lease to the Lessor or as the Lessor may direct in Item 1 by equal calendar monthly instalments in advance with the first payment by the commencement date of this Lease. All payments of rent must be made free of all deductions, set off or counterclaim.
- 1.2 The annual rental referred to herein shall be subject to rent review and shall be adjusted as per the review mechanisms as set out hereafter on the review dates as provided in the Schedule hereto.

### REVIEW MECHANISMS

For relevant application of the review mechanisms see **Item 2** of the Schedule hereto and any other items dealing with rent review

#### 1.2.1 FIXED REVIEW

- 1.2.1.1 If fixed review is indicated in the Schedule hereto then the provisions of this covenant shall apply.
- 1.2.1.2 On each date specified in the Schedule hereto the annual rent increases to the amount shown therein or by the percentage amount specified therein.

#### 1.2.2 CPI REVIEW

- 1.2.2.1 If CPI review is indicated in the Schedule hereto then the provisions of this covenant shall apply.
- 1.2.2.2 "Price Index" means the All Groups Consumer Price Index for Sydney published by the Australian Bureau of Statistics.
- 1.2.2.3 On each date specified in the Schedule hereto the annual rent payable at that time shall increase by the same proportion as the price index published most recently before the date referred to therein has increased over the price index published most recently before the date of commencement of the Lease or any previous rent review date under any review mechanism specified in the Schedule hereto whichever is the later.
- 1.2.2.4 If the method of calculating the price index is altered (for instance by removing a component which formerly comprised part of the material for calculating the index) then, if possible, the price index must be calculated as if that change had not occurred.
- 1.2.2.5 If the price index is discontinued or is altered such that the Lessor acting reasonably is not able to accurately assess changes in the cost of living by reference to that index (in relation of which the opinion of the Lessor is conclusive) then the Lessor may substitute another index that, as nearly as practicable, serves the same purposes and, if there is no such index then the rent shall be fixed by the market review mechanism hereinafter referred to.

#### 1.2.3 MARKET REVIEW

- 1.2.3.1 If market review is indicated in the Schedule hereto then the provisions of this covenant shall apply.
- 1.2.3.2 The annual rent is to be reviewed to the current market rent of the premises on each of the dates as specified in the Schedule hereto.
- 1.2.3.3 The current market rent of the premises is the amount agreed in writing between the Lessor and the Lessee and failing agreement by a date one month before the review date, is the current market rent determined in accordance with the provisions of section 19 of the Retail Shop Leases Act 1994 on the proviso that for the purpose of sub-section (d) thereof either party may apply to the President for the time being holding or



acting in the office of President of the Law Society of New South Wales to nominate a valuer as referred to in that sub-section.

- 1.2.3.4 The determination of the valuer is final and binding upon the parties and the valuer acts as an expert, not as an arbitrator.
- 1.2.3.5 Pending the valuer's determination the Lessee must pay rent in accordance with the annual rent of the premises which applied immediately before the review date.
- 1.2.3.6 Upon receipt of the valuer's assessment the parties must adjust any underpayment or overpayment on the next due date for the payment of rent.

**2.1 BREACH** If at any time during the occupation of the premises by the Lessee or during the term of this Lease or any holding over:-

- 2.1.1 the Lessee fails to pay rent, outgoings or other money by the due date and such failure continues for fourteen days although no formal demand therefor has been made;
- 2.1.2 the Lessee breaches any other obligation under the Lease or fails to perform any act which the Lessee is required to perform under the Lease and such breach or failure if capable of remedy is not remedied within the time specified by the Lessor for the breach or failure to be remedied;
- 2.1.3 execution be levied against any of the assets of the Lessee;
- 2.1.4 the Lessee (not being a company) becomes bankrupt or assigns any estate or enters into a deed of arrangement for the benefit of creditors; or the Lessee (being a company) either:
  - 2.1.4.1 goes into liquidation (other than a voluntary liquidation for the purposes of reconstruction or re-organisation);
  - 2.1.4.2 is wound up or dissolved;
  - 2.1.4.3 enters or attempts to enter into a scheme of arrangement with its creditors or any class thereof;
  - 2.1.4.4 is placed under official management;
  - 2.1.4.5 a receiver or manager or a receiver and manager of any of its assets is appointed; or
  - 2.1.4.6 an inspector or investigator is appointed pursuant to the Companies (New South Wales) Code;

then the Lessor may:

- 2.1.4.6.1 determine the Lease by re-entry, by notice in writing or by any other action available to the Lessor;
- 2.1.4.6.2 by notice in writing to the Lessee convert the term of this Lease into a monthly tenancy as if the Lessee was holding over upon the expiration of the term at the monthly rent current on receipt of the notice;
- 2.1.4.6.3 take any action the Lessor considers necessary or desirable in order to give effect to the Lessor's rights under this Lease;
- 2.1.4.6.4 elect to treat the conduct or failure to perform as a repudiation of the Lease by the Lessee;
- 2.1.4.6.5 recover from the Lessee an amount equal to the damages or loss the Lessor sustains or may sustain thereby; and



- 2.1 4.6.6 apply any bond or bank guarantee in reduction of the loss or damage suffered by the Lessor.
- 2.2 If the Lessor re-enters the premises or otherwise determines the Lease or accepts a repudiation pursuant to the Lessor's rights under this covenant or otherwise, the Lessor (in addition to any other of the Lessor's rights and remedies) is entitled to recover as damages from the Lessee the rent, outgoings and other money due up to that time plus any further rent, outgoings or other money the Lessor could have expected to receive from the Lessee for the balance of the term of the Lease had the re-entry, determination or acceptance of repudiation not occurred, together with all of the Lessor's costs incurred in reletting or attempting to relet the premises, but subject to the Lessor's obligation to mitigate the Lessor's loss.
- 2.3 Acceptance by the Lessor of arrears of rent or other money or of any breach of the Lease by the Lessee does not constitute a waiver of the Lessor's rights.
- 2.4 In the event that the Lessee's conduct (whether acts or omissions) constitutes a repudiation of the Lease (or of the Lessee's obligations under the Lease) or constitutes a breach of any Lease covenants, the Lessee covenants to compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach.
- 2.5 The Lessor shall be entitled to recover damages against the Lessee in respect of repudiation or breach of covenant for the damage suffered by the Lessor during the entire term of this Lease.
- 2.6 The Lessor's entitlement to recover damages shall not be affected or limited by any of the following:-
- 2.6.1 If the Lessee shall abandon or vacate the premises;
  - 2.6.2 If the Lessor shall elect to re-enter or to terminate the Lease;
  - 2.6.3 If the Lessor shall accept the Lessee's repudiation;
  - 2.6.4 If the parties' conduct shall constitute a surrender by operation of law.
- 2.7 The Lessor shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire Lease term, including the periods before and after the Lessee has vacated the premises, and before and after the abandonment, termination, repudiation, acceptance of repudiation or surrender by operation of law referred to in covenant 2.6, whether the proceedings are instituted either before or after such conduct.
- 2.8 In the event of the Lessee vacating the premises, whether with or without the Lessor's consent, the Lessor shall be obliged to take reasonable steps to mitigate the Lessee's damages and to endeavour to lease the premises at a reasonable rent and on reasonable terms. The Lessor's entitlement to damages shall be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this paragraph. The Lessor's conduct taken in pursuance of the duty to mitigate damages shall not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.
- 2.9 The Lessee must pay on demand all costs and expenses incurred by the Lessor in giving effect to the Lessee's rights under this covenant including legal costs on a solicitor and own client basis.
- 3.1 SHORT COVENANTS** To the full effect of the covenants next hereinafter shortly noted as the same are set forth in words at length in the second column of part 2 of the Fourth Schedule of the Conveyancing Act 1919 as herein added to, excepted from, qualified or varied.
- 3.2 (1) That the Lessee covenants with the Lessor to pay rent.
- 3.3 (4) And to maintain and leave the premises in good repair (having regard to their condition at the commencement of the Lease) reasonable wear and tear, war damage and damage by fire

(other than fire caused by any act or omission hereunder by the Lessee or servants or contractors or other invitees or licensees of the Lessee) lightning flood and tempest excepted.

- 3.4 (6) And that the Lessor may at any reasonable time and with reasonable notice, enter and view state of repair and that the Lessee will repair according to notice in writing, and that in default the Lessor may repair.
- 3.5 (7) And that the Lessor may enter and carry out requirements of public authorities, and repair under the Lease.
- 3.6 (16) That the Lessee will not carry on any offensive trade.
- 3.7 (21) The said Lessor covenants with the said Lessee for quiet enjoyment.
- 3.8 (22) And that the Lessee may remove the Lessee's fixtures.

**4.1 EXPIRY** If the Lessee continues in occupation of the premises after the expiration of the term hereby granted or any renewal thereof the tenancy hereby created shall continue as a tenancy from month to month only to be determined by one calendar month's notice in writing from either party hereto to the other expiring on any day and such tenancy from month to month to be otherwise subject to all the covenants conditions and restrictions of this Lease so far as the same are capable of application to such a tenancy.

4.2 If this Lease does not contain an option to renew (see **Item 4** of the Schedule hereto) then the following provisions apply:-

4.2.1 not less than 6 months and not more than 12 months (unless this is a Lease for a term of 12 months or less in which case such periods of 6 months and 12 months referred to herein are changed to read 3 and 6 months respectively) before the expiry of this Lease, the Lessor must by written notification to the Lessee either:-

4.2.1.1 offer the Lessee a renewal or extension of the Lease on terms specified in the notification (including terms as to rent); or

4.2.1.2 inform the Lessee that the Lessor does not propose to offer the Lessee a renewal or extension of the Lease.

4.2.2 An offer made for the purposes of covenant 4.2.1.1 above is not capable of revocation for 1 month after it is made.

4.2.3 If the Lessor fails to give a notification to the Lessee as required by this covenant, the term of the Lease is extended until the end of 6 months after the Lessor gives the notification required by this covenant, but only if the Lessee requests that extension by notice in writing to the Lessor given before this Lease expires.

4.2.4 During any extension of the Lease under covenant 4.2.3 hereof, the Lessee may terminate the Lease by giving not less than 1 month's notice of termination in writing to the Lessor.

**5.1 LESSEE'S COVENANTS** To the following covenants on the part of the Lessee:

5.2 The Lessee must comply with any valid notice served upon the Lessee by the Lessor for the repair of the premises and in default of compliance authorises the Lessor to carry out such work and to recover the cost thereof from the Lessee. The Lessee further agrees to comply at the Lessee's expense with all notices relating to existing regulations, by-laws or orders or any future regulations, by-laws or orders of a statutory or municipal body or any competent authority that may be served upon the Lessee as occupier or on the Lessor as owner and will keep the Lessor indemnified in respect of all such matters in this covenant referred to BUT this provision shall only have effect in regard to such notices as shall arise out of any act, omission or default by the Lessee or the Lessee's servants or contractors or other

invitees or licensees or from the use of the premises by the Lessee or the servants or contractors or other invitees or licensees of the Lessee.

- 5.3 The Lessee will pay for all electric light and power consumed or used on the premises.
- 5.4 The Lessee will pay all telephone rent for any telephone service installed in the premises and for all calls until possession is restored to the Lessor.
- 5.4.1 The Lessee will not cancel any telephone services not belonging to the Lessee installed in the premises but will on termination of this Lease upon yielding up possession to the Lessor arrange to transfer to the Lessor the use of such telephone services.
- 5.5 The Lessee will not make or permit to be made any structural alteration or addition to the premises without the consent in writing of the Lessor.
- 5.6 The Lessee and servants or contractors or other invitees or licensees of the Lessee shall not be guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers.
- 5.7 The Lessee will keep the premises in a clean and wholesome condition and free from vermin and will not allow the accumulation of any rubbish therein. The Lessee agrees to arrange for the removal of the Lessee's own rubbish from the premises using the bins provided. No rubbish is to be left on or around the premises.
- 5.8 The Lessee shall not keep any animals, birds or reptiles in or about the premises without the written consent of the Lessor.
- 5.9 The Lessee will indemnify and save harmless the Lessor from and against all loss or damage whatsoever to the premises or the fixtures or fittings therein contained caused or brought about by the negligent use, misuse or abuse by the Lessee or the servants, contractors, or other invitees or licensees of the Lessee of the water or electricity supplied to the Lessee on the premises or of the water, refrigeration or electric fittings or fixtures or by faulty water, refrigeration or electric fittings or fixtures brought onto the premises by the Lessee or the servants contractors or other invitees or licensees of the Lessee.
- 5.10 The Lessee will forthwith upon the happening and being aware thereof give to the Lessor notice in writing of any accident to or defects in the water pipes, lights or fittings used in connection with the water or electricity services.
- 5.11 The Lessee or the Lessee's servants or contractors or other invitees or licensees will not do or permit anything to be done in or about the premises or keep anything therein other than in connection with or the result of the permitted use which will in any way increase the rate of fire insurance premium on the premises unless the Lessee shall first give notice of such fact to the Lessor and pay any such increased premium on the insurance of the premises as may be thereby necessitated.
- 5.12 The Lessee will not bring upon the premises any heavy machinery or other plant or equipment unless reasonably necessary or proper for the conduct of the Lessee's use of the premises as herein provided and in no event shall any such machinery, plant or equipment be of such nature or size as to cause or in the reasonable opinion of the Lessor be likely to cause any structural or other damage to the floors or walls or any other parts of the premises. Before bringing any such equipment upon the premises the Lessee shall inform the Lessor of the Lessee's intention so to do and the Lessor may direct the route installation and location of all such machinery, plant and equipment and the Lessee shall observe and comply with all such directions.
- 5.13 The Lessee will not install or use or permit to be installed or used in the premises any engine or machine which causes or will or may cause or be likely to cause noise or vibration without the written consent of the Lessor first obtained.
- 5.14 Any additional partitions or other fixtures or improvement or variation to water, electricity, gas or telephone services approved by the Lessor shall be installed at the cost of the Lessee who shall be responsible for the maintenance thereof and the same shall if required by the Lessor be removed at the expense of the Lessee at the expiration or sooner determination of this Lease.



- 5.14.1 The Lessee will at once make good any damage or injury which may at any time hereafter be directly or indirectly occasioned to all or any part of the premises due to any plant, fittings, structures or alterations now on or at any time hereafter made by the Lessee or brought onto the premises by the Lessee.
- 5.15 The Lessee accepts the premises in its current condition and configuration and shall be responsible to obtain development consent for the Lessee's use of the premises and shall not without the consent in writing of the Lessor use or permit the premises or any part thereof to be used or occupied for any purpose other than for the purpose specified in **Item 3** of the Schedule hereto and will ensure that the conduct and management thereof will at all times be of such a standard as to enhance the status of and preserve the said premises for such purpose and the Lessee will during all usual and proper business hours for such business keep the said premises open for business and will conduct the business therein at all times in good faith and in accordance with best business practices and further that the Lessee or the Lessee's servants or contractors will not do or permit to be done upon the premises anything that would be contrary to the regulations of the New South Wales Food Authority or local council and will comply with the requirements of all government, local council, Department of Health, fire and other like authorities in the Lessee's use and occupation of the premises including all health regulations in relation to the Lessee's use of the premises, provided that nothing in this covenant imposes any obligation on the Lessee to perform any work of a structural nature unless arising from the nature of the Lessee's business or the number or gender of employees in the premises.
- 5.15.1 The Lessee indemnifies the Lessor against all claims made on the Lessor which relate to the conduct by the Lessee or the Lessee's use of the premises. The Lessee must occupy, use and keep the premises at the risk of the Lessee and releases the Lessor to the full extent permitted by law from all demands, liability and costs resulting from any loss, death, damage or injury occurring in, or caused by the Lessee's negligence or deliberate or wilful act in the use or occupation of the premises. The Lessee further agrees that in the absence of any negligence or deliberate or wilful act by the Lessor, the Lessor will have no responsibility or liability for any death or injury to person or any loss of or damage to fixtures or personal property of the Lessee or of any other person and the Lessee indemnifies the Lessor from and against all such claims.
- 5.16 The Lessee will not at any time during the said term erect, paint, write on, attach or cause or permit to be erected, painted, written on or attached to the premises or any part thereof any number, name, advertisement, sign or hoarding without the written consent of the Lessor being first obtained (such consent not to be unreasonably withheld or delayed), and then only of such colour, size and style and in such places upon or in the premises as permitted by any relevant local or state government authority
- 5.17 The Lessee if so required by the Lessor shall forthwith upon the determination of this Lease at the Lessee's own cost and expense and in a proper and workmanlike manner and without damage to the premises make good the premises including but not limited to the removal of all plant and equipment (the Lessee is not required to remove range hood canopy, coolroom and compressor, stainless steel range hoods, stainless steel servery, fixed stainless steel shelving, counter, shopfront, floorcoverings and fixed kitchen items upon the determination of the Lease) and remove or erase by painting out so as to leave the affected part of the premises in good order and condition any number, name, advertisement, sign or hoarding erected, painted, written on or attached by the Lessee on or to the premises.
- 5.18 The Lessee will upon the termination of this Lease restore to the Lessor the keys of all doors forming part of or attached to any part of the premises.
- 5.19 The Lessee will not breach any applicable fire safety regulations and will not bring upon or permit or suffer to be upon the premises any goods or materials of a combustible or inflammable or corrosive or dangerous or offensive nature except goods or materials of the nature and in the quantities necessary for carrying on the business herein authorised and will not use without the consent of the Lessor any method of heating or lighting the premises other than by gas or electric current supplied through meters or gas cylinders. The Lessee shall ensure the premises always remain compliant with fire safety regulations, including fire extinguishers in accordance with the Lessee's specific use of the premises and carry out six monthly testing on all fire equipment in the premises.



- 5.20 The Lessee will effect and at all times during the currency of this Lease maintain at the Lessee's own expense insurance for workers compensation, public risk insurance and Industrial Special Risks in the name of the Lessee and the Lessor nominated as an interested third party as registered proprietor with such public risk insurance to be in a sum of not less than \$20,000,000.00 arising out of any one single accident or event or such other minimum amount as may be specified by the Lessor and will indemnify and save harmless the Lessor or assigns from and against all damages, costs, actions, claims and demands which may be recovered or made against the Lessor or assigns by any servant or contractor or other invitee or licensee of the Lessee or any other person for any injury which may be sustained whilst on the premises.
- 5.21 The Lessee will effect and at all times during the currency of this Lease maintain at the Lessee's own expense a policy of insurance against breakage loss or damage to any plate glass in the premises through any cause whatsoever in the full replacement value thereof such policy to be in the joint names of the Lessee and the Lessor.
- 5.22 The Lessee will throughout the term of this Lease effect and maintain all policies of insurance pursuant to the covenants on the Lessee's part herein contained in a reputable insurance office and will pay all premiums payable in respect thereof before the same shall respectively become due and whenever required will produce to the Lessor the policies of such insurance and the Certificate of Currency for each policy provided that in the event that the Lessee shall fail to comply with all or any of the provisions of this covenant the Lessor may effect any of such policies as herein described and pay the premiums therefor and such premiums and any stamp duty or other charge incurred by the Lessor shall be recoverable from the Lessee as arrears of rent.
- 5.23 The Lessee shall upon the signing hereof pay the legal costs and disbursements for which the Lessee is responsible in respect of the completion of this Lease including obtaining of necessary consents (if any), stamping and registration and the Lessee shall pay the Lessor's legal costs and disbursements of the remedying of any breach or non-observance of any covenants or conditions by the Lessee.
- 5.24 The Lessee will at all times during three (3) months prior to the expiration of this Lease permit the Lessor to affix and exhibit any notice in or about the premises indicating the premises to be available for sale or lease and shall permit reasonable access to the Lessor's agents or prospective purchasers or Lessees provided that the Lessor shall not affix or exhibit any such notice of Lease during the term hereof if the Lessee has exercised any right given to the Lessee to take a renewed Lease on the premises from the expiration of the term of this Lease.
- 5.25 The Lessee will reimburse the Lessor for the cost of repairing damage caused to the premises by the Lessee when the goods furniture or effects of the Lessee are being moved into the premises or moved out of the premises at any time.
- 5.26 If at the expiration or sooner determination of this Lease any goods, furniture, fixtures or effects of the Lessee are not removed forthwith or satisfactory arrangement made by the Lessee with the Lessor relating thereto then all or any of such items may at the Lessor's election be forfeited to the Lessor.
- 5.27 If the rent or charges hereby reserved or payable or any part thereof shall be unpaid for the space of fourteen (14) days after any of the days on which the same ought to have been paid the Lessee shall if the Lessor so requires pay to the Lessor interest at the rate of interest which is equal to the rate of interest charged by the National Australia Bank on overdue bankcard accounts from time to time on such unpaid rent or charges, such interest to be calculated from the date such rent or charges were due to be paid until the date such payment is received. Payment of any interest so incurred shall be made by the Lessee to the Lessor when the ensuing rental instalment is due together with such ensuing rental instalment. Payment and acceptance of such interest on such overdue rental or charges shall not be taken or be construed to limit or modify any other remedy or power of the Lessor herein expressed or implied.
- 5.28 The Lessee shall cause the premises and all windows and doors both internal and external to be regularly cleaned in a proper and workmanlike manner and shall not allow any accumulation of useless property or rubbish therein and shall comply in all respects with the requirements and regulations of any competent authority in respect of such.

- 5.29 The Lessee will upon the expiration of the term hereby granted or at least each five (5) years of the term hereof in a proper and workmanlike manner paint with two coats at least of good oil paint or other paint approved by the Lessor all the inside walls wood and ironwork or other parts of the inside of the premises which have been previously painted.
- 5.30 The Lessee will keep all drains, sinks and pipes within or on the premises clear and free of chokage and will not throw or permit to be thrown any fat, tea leaves or other solid matter down any sink, drain or pipe within or on the premises and will not use or permit to be used any water apparatus for purposes other than those for which they are constructed and will carry out at the Lessee's own expense any repairs to the drainage or septic or sewerage system or sinks of the premises caused by reason of the neglect to observe this covenant on the part of the Lessee or any person using the premises during the tenancy hereby granted.
- 5.31 The Lessee shall be responsible for the regular quarterly pump out of the grease arrestor as required by MidCoast Water.
- 5.32 The Lessee shall be responsible for regular cleaning of the exhaust hood filters to comply with the building insurance.
- 5.33 The Lessee shall be responsible for all maintenance, repairs and or replacement of the coolroom/compressor during the lease term or option leases or any holding over. (The Lessee however will not be required to remove the coolroom or exhaust hood upon vacating the premises).

**6.1 DAMAGE** That if at any time the premises or any part thereof be damaged or destroyed then in such case:-

- 6.1.1 The Lessor and the Lessee may mutually agree to terminate the Lease.
- 6.1.2 The Lessee is not liable to pay rent, or any amount payable to the Lessor in respect of outgoings or other charges that is attributable to any period during which the premises cannot be used under the Lease or is inaccessible due to that damage.
- 6.1.3 If the premises are still useable under the Lease but such useability is diminished due to the damage, the Lessee's liability for rent and any amount in respect of outgoings attributable to any period during which useability is diminished is reduced in proportion to the reduction in useability caused by the damage.
- 6.1.4 If the Lessor notifies the Lessee in writing that the Lessor considers that the damage is such as to make its repair impracticable (acting reasonably), the Lessor or the Lessee may terminate the Lease by giving not less than 7 days notice in writing to the other and no compensation is payable in respect of that termination.
- 6.1.5 If the Lessor fails to repair the damage within a reasonable time after the Lessee requests the Lessor in writing to do so, the Lessee may terminate the Lease by giving not less than 7 days notice in writing of termination to the Lessor.
- 6.1.6 Nothing in the preceding covenants 6.1.1 to 6.1.5 affects any right of the Lessor or the Lessee to recover damages from the Lessee or the Lessor in respect of any damage or destruction to which these covenants apply.
- 7.1** On each and every occasion on which the Lessee omits or neglects to pay any money or to do or effect anything which the Lessee has herein covenanted to pay do or effect then it shall be lawful for but not obligatory upon the Lessor (and without prejudice to or affecting in any way any other rights powers and remedies arising from such default) to pay such money or to do or effect such thing by the Lessor or the Lessor's servants or contractors as if the Lessor were the Lessee and for this purpose the Lessor or the Lessor's servants or contractors may enter upon the whole or any part of the premises and there remain for the purpose of doing or effecting any such thing and the Lessor may recover the amount of reasonable expenses and costs of such payment of doing or effecting forthwith, as if the same was overdue rent.



- 8.1 The Lessor shall not be liable for any loss or damage to any personal estate of the Lessee or any person which may at any time be in or upon or about the premises arising from the overflow or leakage of water sewerage or other matter which may leak into or issue from any part of the premises or of the adjoining premises or of the Lessor's building of which the premises forms part unless such overflow or leakage is the direct result of any act neglect or omission of the Lessor or the Lessor's contractors or agents.
- 9.1 **ASSIGNMENT** The Lessee covenants not to assign this Lease except in accordance with the provisions contained in this covenant.
- 9.2 If the Lessee desires to assign this Lease:
- 9.2.1 the Lessee shall, before requesting the Lessor's consent, furnish the proposed assignee with a copy of any disclosure statement given to the Lessee pursuant to the Retail Leases Act 1994 in respect of this Lease, together with details of any changes that have occurred in respect of the information contained in that disclosure statement since it was given to the Lessee (being changes of which the Lessee is aware or could reasonably be expected to be aware). If the Lessee cannot provide the proposed assignee with a copy of the disclosure statement, the Lessee may request the Lessor to provide a copy of that disclosure statement, and if the Lessor is unable or unwilling to provide that copy within 14 days after the request, the Lessee need not comply with this paragraph;
- 9.2.2 the Lessee shall request the Lessor's consent to the assignment of this Lease in writing and shall furnish with that request:
- 9.2.2.1 information regarding the financial resources and financial standing and the business experience and retailing skills of the proposed assignee;
- 9.2.2.2 particulars of the use of the leased premises intended by the proposed assignee;
- 9.2.2.3 confirmation that the Lessee has complied with covenant 9.2.1 hereof.
- 9.3 The Lessor:
- 9.3.1 agrees to deal expeditiously with the Lessee's request for consent to assign this Lease;
- 9.3.2 is entitled to require the Lessee to furnish to the Lessor:
- 9.3.2.1 details of the Lessee's financial resources and retailing skills at the time of the request for consent;
- 9.3.2.2 such further information as the Lessor may reasonably require concerning the financial standing and business experience of the proposed assignee;
- 9.3.3 is entitled to withhold consent to the assignment of this Lease in any of the following circumstances:
- 9.3.3.1 if the proposed assignee proposes to change the use to which the premises are put (unless the Lessor consents to the change of use in accordance with the provisions of this Lease);
- 9.3.3.2 If the proposed assignee has financial resources and retailing skills that are inferior to those of the Lessee;
- 9.3.3.3 if the Lessee has failed to comply with the provisions contained in this covenant for requesting and obtaining consent to the assignment.
- 9.4 For the purpose of the Lessee making a request and the Lessor considering that request under this covenant:
- 9.4.1 if the assignee is a corporation, the retailing skills of the assignee include the retailing skills of those of its directors who have actively participated in the assignee's business and intend to actively participate in the business in the leased premises;

- 9.4.2 If the Lessor consents to a change of use by the assignee, the assignee's retailing skills for that use should be compared with the Lessee's retailing skills for the Lessee's use of the leased premises.
- 9.5 The Lessor may require the assignee to execute an instrument in which the assignee will assume liability under the Lease for the residue of the Lease term.
- 9.5.1 If the assignee is a corporation whose shares are not listed on an Australian stock exchange, the Lessor may require, as a condition of the Lessor's consent to the assignment, that two of its directors or shareholders (chosen by the Lessor) execute personal guarantees in respect of the payment of rent and the observance and performance of the Lease covenants by the assignee during the Lease term.
- 9.5.2 The Lessee will pay the Lessor's reasonable legal, administrative and other expenses of investigating the Lessee's application for consent and if approved of preparing, executing, stamping and registering all the required instruments or dealings and the costs of obtaining any mortgagee's consent.
- 9.6 If the Lessee has complied with the requirements of this covenant, the Lessor shall indicate, within 42 days after the Lessee has made its request under covenant 9.2.2 and furnished any further details required under covenant 9.3.2, whether the Lessor consents or withholds consent. If the Lessor does not provide that indication within 42 days, the Lessor shall be taken to have consented to the assignment, subject to the conditions in covenants 9.5, 9.5.1 and 9.5.2 hereof.
- 9.7 For the purpose of covenant 9.1 any change in the beneficial ownership of the share capital of the Lessee (if a Company) altering the effective control of the Lessee shall be deemed a proposed assignment of this Lease
- 10.1** The Lessee covenants not to sublet or otherwise deal with the right to possession of the premises without the prior written consent of the Lessor which will not be unreasonably withheld.
- 11.1** Each of the covenants by the Lessee which are specified in this paragraph are essential terms of this Lease:-
- 11.1.1 The covenant to pay rent throughout the Lease term at a date not later than fourteen (14) days after the due date for the payment of each instalment of rent (covenant 2.1.1);
- 11.1.2 The covenants dealing with assignment and subletting (covenants 9.1 and 10.1);
- 11.1.3 The covenant dealing with the use of the premises (covenant 5.15 and **Item 3** of the Schedule hereto).
- 11.2 In respect of the Lessee's obligation to pay rent, the acceptance by the Lessor of arrears or of any late payment of rent shall not constitute a waiver of the essentiality of the Lessee's obligation to pay rent in respect of those arrears or of the late payments or in respect of the Lessee's continuing obligation to pay rent during the Lease term.
- 11.3 The Lessee covenants to compensate the Lessor in respect of any breach of an essential term of this Lease and the Lessor is entitled to recover damages from the Lessee in respect of such breaches. The Lessor's entitlement under this covenant is in addition to any other remedy or entitlement to which the Lessor is entitled (including to terminate this Lease).
- 12.1 GST** In this clause:-
- 12.1.1 "GST" refers to goods and services tax under *A New Tax System (Goods and Services Tax) Act 1999* ("GST Act") and the terms used have the meanings as defined in the GST Act.
- 12.1.2 It is agreed that rent and all other amounts agreed to be paid by the Lessee to the Lessor, being the consideration for the supply expressed in this Lease are exclusive of GST.
- 12.1.3 In respect of any liability of the Lessor for GST under this Lease, and the renewal or extension of this Lease including for rent rates outgoings or any consideration for any other taxable supply the Lessee covenants to pay to the Lessor at the same time as any payment is made involving the Lessor in GST



liability the additional amount of GST together with the payment to which it relates and the Lessor will provide to the Lessee a Tax Invoice at the same time as any payment of GST is due.

- 12.1.4 Despite any other provision in this Lease, if a payment due under this Lease is a reimbursement or indemnification by one party of an expense, loss or liability incurred or to be incurred by the other party, the payment shall exclude any GST forming part of the amount to be reimbursed or indemnified for which the other party can claim an Input Tax Credit.
- 13.1 OPTION** If an option term is specified in **Item 4** of the Schedule hereto the Lessee may require the Lessor to enter into a further Lease of the premises commencing from the date of termination of this Lease provided that:
- 13.1.1 the Lessee serves notice in writing upon the Lessor requiring the Lessor to enter into the further Lease;
- 13.1.2 the Lessor receives the notice not more than nine months and not less than three months prior to the date of termination;
- 13.1.3 the Lessee is not in default under this Lease as at the date of termination; and
- 13.1.4 the Lessee has not during the term committed persistent breaches of the Lessee's obligations under the terms of this Lease.
- 13.2 Any further Lease arising from any option exercised pursuant to this covenant shall contain identical provisions as are contained in this Lease except:
- 13.2.1 this option covenant shall be deleted; and
- 13.2.2 the commencing date and terminating date shall be amended so as to reflect the further term and the rent at the date of commencement shall be recalculated in accordance with covenant 13.3 hereafter.
- 13.3 The rent payable by the Lessee at the commencement of the further term and/or for any ensuing years thereafter shall be such amount as specified in **Item 5** of the Schedule hereto.
- 13.4 "Current market rent" means the rent that, having regard to the terms and conditions of the Lease and such other matters as are relevant to the assessment of the current market rent, would be reasonably expected to be paid for the premises if they were unoccupied and offered for renting for the use to which the premises may be put in accordance with the Lease;
- 13.4.1 Rent concessions and other benefits that are frequently or generally offered to prospective Lessees of unoccupied retail shops are declared to be relevant matters to be taken into account in the assessment of the current market rent;
- 13.4.2 The value of goodwill created by the Lessee's occupation and the value of the Lessee's fixtures and fittings in the retail shop premises are to be ignored for the purposes of the assessment of the current market rent;
- 13.4.3 Without limiting the generality of covenant 13.4, the current market rent shall be determined:
- 13.4.3.1 on the basis that the premises are available for leasing with vacant possession for the option term;
- 13.4.3.2 on the basis that the Lessee's lease covenants and obligations have been fully performed at the date of commencement of the further term.
- 13.5 Either party may apply to the person for the time being holding or acting in the office of President of the Law Society of New South Wales ("the nominator") to nominate a person who is a licensed valuer and (i) has practised as a valuer for not less than five years; (ii) is a member of the Australian Institute of Valuers and Land Administrators (Incorporated); and (iii) is licensed to practise as a valuer of the kind of premises that are the subject of this Lease (called "nominee") to determine the current market rent at the date of commencement of the further term.

- 13.6 The nominee shall act as an expert and not as an arbitrator. Each party may submit written valuations and submissions to the nominee within 21 days after the nominee has accepted the nomination to act, but may not make oral submissions or adduce any evidence. A party shall, at the time of submitting any written submissions or written valuation to the nominee, forward to the other party a copy of all written material submitted to the nominee. Within 35 days after the nominee has accepted the nomination to act, each party may forward to the nominee written comments on the other party's written valuations and submissions. The nominee shall take into consideration any written submissions received within those periods, but is not fettered by them and shall determine the current market rent in accordance with the nominee's own judgment and the opinion which the nominee forms. The nominee's determination is final and binding on the parties.
- 13.7 The nominee shall conclude his or her determination and inform the parties of it within 60 days after having accepted the nomination to act.
- 13.8 If the nominee:-
- 13.8.1 fails to accept the nomination to act;
  - 13.8.2 fails to determine the current market rent within 60 days after accepting the nomination to act;
  - 13.8.3 becomes incapacitated or dies; or
  - 13.8.4 resigns as the nominee;
- then either party may request the nominator to appoint another nominee in accordance with covenant 13.5.
- 13.9 The parties shall bear equally the total costs of any such rent determination. Each party shall bear its own costs of legal representation and the fees of any expert for giving evidence and for making a valuation for the purpose of written submissions.
- 13.10 Pending the resolution and determination of the current market rent of the premises the Lessee shall continue to pay rent at the rate previously payable by the Lessee until the current market rent is determined and upon such determination any adjustment thereby rendered necessary shall be forthwith made between the parties and calculated from the date of commencement of the further term. Where as a result of any such adjustment the Lessee shall be obliged to pay any additional rent to the Lessor then in addition to such rent the Lessee shall also pay to the Lessor interest on such additional rent calculated at the rate equal to the rate of interest charged by the National Australia Bank on overdue bankcard accounts from time to time from the date of commencement of the further term until the date on which such additional rent shall be paid in full.
- 14.1 FURTHER OPTION** If a further option term is specified in **Item 6** of the Schedule hereto (hereinafter called the second option Lease) the Lessee may require the Lessor to enter into such further Lease of the premises commencing from the date of termination of the first option contained in **Item 4** of the Schedule hereto (hereinafter called the first option Lease) provided that:
- 14.1.1 the Lessee serves notice in writing upon the Lessor requiring the Lessor to enter into the second option Lease;
  - 14.1.2 the Lessor receives the notice not more than nine months and not less than three months prior to the date of termination of the first option Lease;
  - 14.1.3 the Lessee is not in default under this Lease as at the date of termination of the first option Lease; and
  - 14.1.4 the Lessee has not during the term committed persistent breaches of the Lessee's obligations under the terms of the first option Lease.
- 14.2 Any second option Lease exercised pursuant to this covenant shall contain identical provisions as are contained in the first option Lease except:



- 14.2.1 this further option covenant shall be deleted; and
- 14.2.2 the commencing date and terminating date shall be amended so as to reflect the further term and the rent at the date of commencement shall be recalculated in accordance with covenant 14.3 hereafter.
- 14.3 The rent payable by the Lessee at the commencement of the further term and/or for any ensuing years thereafter shall be such amount as specified in **Item 7** of the Schedule hereto.
- 14.4 "Current market rent" means the rent that, having regard to the terms and conditions of the Lease and such other matters as are relevant to the assessment of the current market rent, would be reasonably expected to be paid for the premises if they were unoccupied and offered for renting for the use to which the premises may be put in accordance with the Lease;
- 14.4.1 Rent concessions and other benefits that are frequently or generally offered to prospective Lessees of unoccupied retail shops are declared to be relevant matters to be taken into account in the assessment of the current market rent;
- 14.4.2 The value of goodwill created by the Lessee's occupation and the value of the Lessee's fixtures and fittings in the retail shop premises are to be ignored for the purposes of the assessment of the current market rent;
- 14.4.3 Without limiting the generality of covenant 14.4, the current market rent shall be determined:
- 14.4.3.1 on the basis that the premises are available for leasing with vacant possession for the option term;
- 14.4.3.2 on the basis that the Lessee's lease covenants and obligations have been fully performed at the date of commencement of the further term.
- 14.5 Either party may apply to the person for the time being holding or acting in the office of President of the Law Society of New South Wales ("the nominator") to nominate a person who is a licensed valuer and (i) has practised as a valuer for not less than five years; (ii) is a member of the Australian Institute of Valuers and Land Administrators (Incorporated); and (iii) is licensed to practise as a valuer of the kind of premises that are the subject of this Lease (called "nominee") to determine the current market rent at the date of commencement of the further term.
- 14.6 The nominee shall act as an expert and not as an arbitrator. Each party may submit written valuations and submissions to the nominee within 21 days after the nominee has accepted the nomination to act, but may not make oral submissions or adduce any evidence. A party shall, at the time of submitting any written submissions or written valuation to the nominee, forward to the other party a copy of all written material submitted to the nominee. Within 35 days after the nominee has accepted the nomination to act, each party may forward to the nominee written comments on the other party's written valuations and submissions. The nominee shall take into consideration any written submissions received within those periods, but is not fettered by them and shall determine the current market rent in accordance with the nominee's own judgment and the opinion which the nominee forms. The nominee's determination is final and binding on the parties.
- 14.7 The nominee shall conclude his or her determination and inform the parties of it within 60 days after having accepted the nomination to act.
- 14.8 If the nominee:-
- 14.8.1 fails to accept the nomination to act;
- 14.8.2 fails to determine the current market rent within 60 days after accepting the nomination to act;
- 14.8.3 becomes incapacitated or dies; or
- 14.8.4 resigns as the nominee;

then either party may request the nominator to appoint another nominee in accordance with covenant 14.5.

14.9 The parties shall bear equally the total costs of any such rent determination. Each party shall bear its own costs of legal representation and the fees of any expert for giving evidence and for making a valuation for the purpose of written submissions.

14.10 Pending the resolution and determination of the current market rent of the premises the Lessee shall continue to pay rent at the rate previously payable by the Lessee until the current market rent is determined and upon such determination any adjustment thereby rendered necessary shall be forthwith made between the parties and calculated from the date of commencement of the further term. Where as a result of any such adjustment the Lessee shall be obliged to pay any additional rent to the Lessor then in addition to such rent the Lessee shall also pay to the Lessor interest on such additional rent calculated at the rate equal to the rate of interest charged by the National Australia Bank on overdue Bankcard accounts from time to time from the date of commencement of the further term until the date on which such additional rent shall be paid in full.

#### **15.1 AIR-CONDITIONING**

The Lessee agrees to enter into a service agreement with a qualified air-conditioning contractor for regular servicing and maintenance of the air-conditioning unit/s at intervals of at least 6 months throughout the term of this Lease and any options or holding over. The Lessee will provide a copy of the service agreement to the Lessor's Managing Agents within 14 days of occupation. A final service report is to be provided to the Managing Agent upon vacating the premises. The Lessor is only responsible for the repairs to the air-conditioning of a capital nature.

#### **16.1 OUTGOINGS**

The Lessee agrees to pay to the Lessor within twenty eight (28) days of receipt of written request for such payment from the Lessor 100% of the following:-

16.1.1 Insurance premiums and other charges in connection with insurance cover against insurable risks which the Lessor considers are appropriate for the building, the Lessor's fixtures and fittings, persons in the building or on the land for any reason, the Lessee's business herein and this Lease (including loss of rent and outgoings and removal of debris) and including any excesses payable on claims made;

16.1.2 Land Tax;

16.1.3 Water rates and water usage charges, trade waste and sewerage;

16.1.4 Council Rates and charges;

payable in respect of the whole of the property comprised in Folio Identifier 30/222606 but the Lessee shall be liable only for a proportion of such payment where the term of this Lease is current for only part of the period for which such assessment is issued, provided always that for the purpose of calculating the amount of Land Tax to be borne by the Lessee the said land shall be deemed to be the only land owned by the Lessor at the relevant dates in respect of which Land Tax is assessed and not subject to a special trust and not owned by a non-concessional company.

#### **17.1 SECURITY DEPOSIT**

That the Lessee shall on or before the signing hereof, pay to the Lessor or the Lessor's Managing Agent a security deposit or Bank Guarantee in the sum of \$21,725.00 (three month's Rent including GST as at the commencement hereof), to be dealt with by the Managing Agent pursuant to the Retail Leases Act and such sum shall be refunded to the Lessee (or in the case of a Bank Guarantee return same to the Lessee) on the termination of this Lease and the vacation of the leased Premises by the Lessee provided that the Lessor shall be entitled to deduct from the said sum or apply the same towards the satisfaction of any amount that may be payable to the Lessor as a result of any breach by the Lessee of any of the terms conditions or covenants of this Lease and provided further that such deduction or application shall be not deemed to waive the Lessee's breach.



**18.1 LESSOR'S COVENANTS**

The Lessor covenants at the Lessor's own cost:-

18.1.1 to keep the structure of the premises in good sound repair and roof water tight and must at the Lessor's own cost repair the structure within a reasonable time following notification by the Lessee of the need for such repair, subject to clause 6 and except where the damage or loss is caused by the wilful or negligent act or omission of the Lessee or any person for whom the Lessee is responsible;

18.1.2 to the extent it is within the Lessor's control, keep all services to the premises functioning properly at all times except where periodic maintenance is required in which case such maintenance must be carried out by the Lessor in the manner which will minimize prejudice to the Lessee in the Lessee's use of the premises and the operation of the Lessee's business;

18.1.3 except where it is the Lessee's obligation under the Lease, promptly comply with the requirements of any authority and the law with respect to the premises; and

18.1.4 where possible to carry out the Lessor's obligations under this clause 18.1 outside the usual operating hours of the Lessee.

**19.1 PARTIES**

It is hereby expressly agreed and declared that where two or more lessees are parties hereto the covenants and agreements on their part herein contained shall bind them and any two or more of them jointly and severally and that except to the extent that such interpretation shall be excluded by or be repugnant to the context whenever the same is used herein the word "Lessee" shall mean and include the Lessee and executors administrators and permitted assigns of the Lessee or in the case of a corporation the Lessee its successors and assigns and the word "Lessor" shall mean and include the Lessor and executors, administrators, successors and assigns of the Lessor, the word "person" shall include a corporation or company, words importing the singular or plural number shall be deemed to include the plural and singular numbers, words importing the masculine gender shall include the feminine and neuter gender and vice versa and reference to statutes shall include all statutes amending or consolidating the statutes referred to.

19.2 The covenants implied into Leases by the Conveyancing Act are hereby excluded except to the extent that such covenants cannot be excluded or are repeated herein.

19.3 The Lessor and the Lessee hereby agree that any provision of this Lease in breach of any statute, regulation, by-law or ordinance and which in consequence of such breach or for any other reason is void, voidable, unenforceable or invalid shall in such case be severable from this Lease.

**20.1 NOTICES**


Any notice or other document required to be given or served under this Lease may be given or served:

20.1.1 in any manner mentioned in sub-sections (a) (b) or (d) of Section 160 of the Conveyancing Act 1919;

20.1.2 by telex or facsimile transmission; or

20.1.3 by means of any document exchange service of which the party to be served is a member,

and any notice or other document shall when given or served by the method mentioned in covenant 20.1.3 be deemed to have been given or served and received by the other party one (1) day after the date of delivery at the document exchange and in the case of any notice or document required to be served or given by the Lessor the same may be signed on behalf of the Lessor by the managing agent, property manager, assistant property manager, director, secretary, assistant secretary or solicitor employed or engaged by the Lessor.

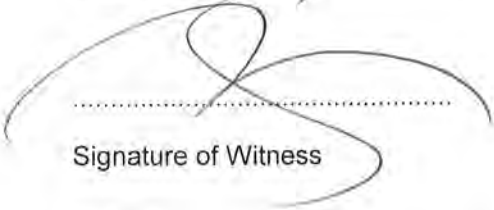




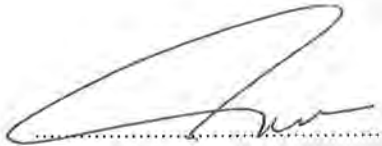


**EXECUTED** by the said Lessor **Omid Darzi**

in the presence of:

  
.....  
Signature of Witness

*TIMOTHY JOHN STACCI*  
.....  
Name of Witness

)   
.....  
) Omid Darzi

**EXECUTED FOR AND ON BEHALF OF**

the said Lessee **Darzi Group Pty Limited**

**ACN 153 481 179** by authority of the Sole Director/  
Secretary:

)   
.....  
) Omid Darzi  
) Sole Director/Secretary