

# Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	<b>Ren Property</b> <b>98 Hannell Street, Wickham, NSW 2293</b>	Phone: 0412 867 777
co-agent		
vendor	<b>Lochinvar Downs Pty Ltd ACN 622 571 831</b> <b>Lochinvar Unit Trust ABN 12 892 578 607</b> <b>1 Hartley Drive, Thornton, NSW 2322</b>	
vendor's solicitor	<b>Hunter Law</b> <b>1 Hartley Drive, Thornton NSW 2322</b> <b>PO Box 3042, Thornton NSW 2322</b>	Phone: 02 4966 4966 Fax: 02 4966 3644 Ref: PK:TU:1819 E: priscilla@hunterlawyers.com
date for completion land (address, plan details and title reference)	<b>See Special Conditions</b> <b>Proposed Lot ### Station Lane, Lochinvar, New South Wales 2321</b> <b>Unregistered Plan: Lot ### in an unregistered plan which is part of Lot 310 Section 1034974 Plan</b> <b>Folio Identifier Part 310/1034974</b>	(clause 15)
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input 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 checked="" type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

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

vendor	<b>GST AMOUNT (optional)</b> The price includes GST of:	witness
purchaser	<input type="checkbox"/> JOINT TENANTS <input type="checkbox"/> tenants in common <input type="checkbox"/> in unequal shares	witness

**Choices**

Vendor agrees to accept a **deposit-bond** (clause 3)  NO  yes

**Nominated Electronic Lodgment Network (ELN)** (clause 30):

**Electronic transaction** (clause 30)

no  YES

(if no, vendor must provide further details, such as the proposed applicable waiver, in the space below, or serve *within* 14 days of the contract date):

**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 a **GSTRW payment**

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

(GST residential withholding payment)

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

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

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

Supplier's name:

**Lochinvar Ridge Pty Ltd Lochinvar Unit Trust**

Supplier's ABN: **12 892 578 607**

**ACN 622 571 831**

Supplier's GST branch address (if applicable):

Supplier's business address:

**1 Hartley Drive, Thornton, NSW 2322**

Supplier's email address:

geoff@hunterland.com.au

Supplier's phone number: 02 4966 4966

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

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

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

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

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

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

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

## List of Documents

### General

- 1 property certificate for the land
- 2 plan of the land
- 3 unregistered plan of the land
- 4 plan of land to be subdivided
- 5 document that is to be lodged with a relevant plan
- 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979
- 7 additional information included in that certificate under section 10.7(5)
- 8 sewerage infrastructure location diagram (service location diagram)
- 9 sewer lines location diagram (sewerage service diagram)
- 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract
- 11 *planning agreement*
- 12 section 88G certificate (positive covenant)
- 13 survey report
- 14 building information certificate or building certificate given under *legislation*
- 15 lease (with every relevant memorandum or variation)
- 16 other document relevant to tenancies
- 17 licence benefiting the land
- 18 old system document
- 19 Crown purchase statement of account
- 20 building management statement
- 21 form of requisitions
- 22 *clearance certificate*
- 23 land tax certificate

### Home Building Act 1989

- 24 insurance certificate
- 25 brochure or warning
- 26 evidence of alternative indemnity cover

### Swimming Pools Act 1992

- 27 certificate of compliance
- 28 evidence of registration
- 29 relevant occupation certificate
- 30 certificate of non-compliance
- 31 detailed reasons of non-compliance

### Strata or community title (clause 23 of the contract)

- 32 property certificate for strata common property
- 33 plan creating strata common property
- 34 strata by-laws
- 35 strata development contract or statement
- 36 strata management statement
- 37 strata renewal proposal
- 38 strata renewal plan
- 39 leasehold strata - lease of lot and common property
- 40 property certificate for neighbourhood property
- 41 plan creating neighbourhood property
- 42 neighbourhood development contract
- 43 neighbourhood management statement
- 44 property certificate for precinct property
- 45 plan creating precinct property
- 46 precinct development contract
- 47 precinct management statement
- 48 property certificate for community property
- 49 plan creating community property
- 50 community development contract
- 51 community management statement
- 52 document disclosing a change of by-laws
- 53 document disclosing a change in a development or management contract or statement
- 54 document disclosing a change in boundaries
- 55 information certificate under Strata Schemes Management Act 2015
- 56 information certificate under Community Land Management Act 1989
- 57 disclosure statement - off the plan contract
- 58 other document relevant to off the plan contract

### Other

- 59

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

# Disclosure Statement – Off the Plan Contracts

This is the approved form for the purposes of s66ZM of the Conveyancing Act 1919.

<b>VENDOR</b>	Lochinvar Downs Pty Ltd ACN 622 571 831 Lochinvar Unit Trust ABN 12 892 578 607, 1 Hartley Drive, Thornton, NSW 2322
<b>PROPERTY</b>	Proposed Lot on the front of the contract in an unregistered plan which is part of Lot 310 Section 1034974

## TITLE STRUCTURE

Will the lot be a lot in a strata scheme?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Will the lot also be subject to a Strata Management Statement or Building Management Statement?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Will the lot form part of a community, precinct or neighbourhood scheme?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If Yes, please specify scheme type:

## DETAILS

<b>Completion</b>	21 days after the satisfaction of the Conditions Precedent.		<b>Refer to clause(s):</b>	Clause 33
Is there a sunset date?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Can this date be extended?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<b>Refer to clause(s):</b> Clauses 48, 49 and 51
Does the purchaser pay anything more if they do not complete on time?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Provide details, including relevant clause(s) of contract:		Clause 34
Has development approval been obtained?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Development Approval No:		DA 18-456
Has a principal certifying authority been appointed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Provide details:		
Can the vendor cancel the contract if an event preventing or enabling the development does or does not occur?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Provide details, including relevant clause(s) of contract:		Clause 48

## ATTACHMENTS (s66ZM(2) of the Conveyancing Act 1919)

The following prescribed documents are included in this disclosure statement (select all that apply).

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> draft plan  | <input type="checkbox"/> draft community/precinct/neighbourhood/management statement |
| <input checked="" type="checkbox"/> s88B instrument proposed to be lodged with draft plan | <input type="checkbox"/> draft community/precinct/neighbourhood/development contract |
| <input type="checkbox"/> proposed schedule of finishes                                    | <input type="checkbox"/> draft strata management statement                           |
| <input type="checkbox"/> draft strata by-laws   | <input type="checkbox"/> draft building management statement                         |
| <input type="checkbox"/> draft strata development contract                                |  |

**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. EXCEPT in the circumstances listed in paragraph 3, the purchaser may rescind the contract at any time before 5 pm on—
  - (a) the tenth business day after the day on which the contract was made—in the case of an off the plan contract, or
  - (b) the fifth business day after the day on which the contract was made—in any other case.
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:
 

APA Group Australian Taxation Office Council County Council Department of Planning, Industry and Environment Department of Primary Industries Electricity and gas Land & Housing Corporation Local Land Services	NSW Department of Education NSW Fair Trading Owner of adjoining land Privacy Public Works Advisory Subsidence Advisory NSW Telecommunications Transport for NSW Water, sewerage or drainage authority
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If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay transfer 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. More information is available from the ATO.

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

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

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>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>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>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice served by the <i>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 22 of the Swimming Pools Regulation 2018).

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

## 7 Claims by purchaser

Normally, the purchaser can make a claim (including a claim under clause 6) before completion only by serving it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –

7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –

7.1.1 the total amount claimed exceeds 5% of the price;

7.1.2 the vendor serves notice of intention to *rescind*; and

7.1.3 the purchaser does not serve notice waiving the claims *within* 14 days after that service; and

7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –

7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;

7.2.2 the amount held is to be invested in accordance with clause 2.9;

7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);

7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;

7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and

7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

## 8 Vendor's rights and obligations

The vendor can *rescind* if –

8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;

8.1.2 the vendor serves a notice of intention to *rescind* that specifies the *requisition* and those grounds; and

8.1.3 the purchaser does not serve a notice waiving the *requisition* *within* 14 days after that service.

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

8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;

8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and

8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

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

9.1 keep or recover the deposit (to a maximum of 10% of the price);

9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –

9.2.1 for 12 months after the *termination*; or

9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and

9.3 sue the purchaser either –

9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –

- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
- the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or

9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –

10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;

10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);

10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;

10.1.4 any change in the *property* due to fair wear and tear before completion;

10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;

10.1.6 a condition, exception, reservation or restriction in a Crown grant;

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

- 13.8.1 this sale is not a taxable supply in full; or  
 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).  
 13.9 If this contract says this sale is a taxable supply to an extent –  
 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and  
 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.  
 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.  
 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.  
 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.  
 13.13 If the purchaser must make a *GSTRW payment* the purchaser must –  
 13.13.1 at least 5 days before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under 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 *GSTRW 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 *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.

#### **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 lodgment fee to the purchaser.
- 16.6 If a *party* serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.
- **Purchaser**
- 16.7 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;
    - *FRCGW remittance* payable;
    - *GSTRW 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 Schedule 2, Part 7 of the Residential Tenancies Act 2010).

## 18 Possession before completion

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

## 19 Rescission of contract

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

## 20 Miscellaneous

- 20.1 The parties acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a party consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A party's solicitor can receive any amount payable to the party under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a party if it is signed by the party or the party's solicitor (apart from a direction under clause 4.3);
  - 20.6.2 served if it is served by the party or the party's solicitor;
  - 20.6.3 served if it is served on the party's solicitor, even if the party has died or any of them has died;
  - 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
  - 20.6.5 served if it is sent by email or fax to the party's solicitor, unless in either case it is not received;
  - 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person; and
  - 20.6.7 served at the earliest time it is served, if it is served more than once.
- 20.7 An obligation to pay an expense of another party of doing something is an obligation to pay –
- 20.7.1 if the party does the thing personally - the reasonable cost of getting someone else to do it; or
  - 20.7.2 if the party pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any legislation (including any percentage or rate specified in legislation) is also a reference to any corresponding later legislation.
- 20.12 Each party must do whatever is necessary after completion to carry out the party's obligations under this contract.
- 20.13 Neither taking possession nor serving a transfer of itself implies acceptance of the property or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each party's knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

## 21 Time limits in these provisions

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

## 22 Foreign Acquisitions and Takeovers Act 1975

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

## 23 Strata or community title

### • Definitions and modifications

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –

- 23.2.1 'change', in relation to a scheme, means –
  - a registered or registrable change from by-laws set out in this contract;
  - a change from a development or management contract or statement set out in this contract; or
  - a change in the boundaries of common property;
- 23.2.2 'common property' includes association property for the scheme or any higher scheme;
- 23.2.3 'contribution' includes an amount payable under a by-law;
- 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
- 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;

- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
  - due to fair wear and tear;
  - disclosed in this contract; or
  - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The parties must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 Normally, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 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 earnt 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 an 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 the effective date, but at least 14 days before the date for completion, a party serves a notice stating a valid reason why it cannot 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 that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
  - 30.4.2 normally, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the participation rules;
  - 30.4.3 the parties must conduct the electronic transaction –
    - in accordance with the participation rules and the ECNL; and
    - using the nominated ELN, unless the parties otherwise agree;
  - 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;
  - 30.9.2 the vendor must confirm the *adjustment figures* at least *1 business day* before the date for completion; and
  - 30.9.3 if the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must *populate the Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least *2 business days* before the date for completion.
- 30.10 Before 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 computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 30.13.1 all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
  - 30.13.2 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 caveror 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 Conveyancing Transaction to be conducted for the parties by their legal representatives as Subscribers using an ELN and in accordance with the ECNL and the participation rules;
<i>electronically tradeable</i>	a land title that is Electronically Tradeable as that term is defined in the conveyancing rules;
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the property and to enable the purchaser to pay the whole or part of the price;
<i>mortgagee details</i>	the details which a party to the electronic transaction must provide about any discharging mortgagee of the property as at completion;
<i>participation rules</i>	the participation rules as determined by the ECNL;
<i>populate</i>	to complete data fields in the Electronic Workspace; and
<i>title data</i>	the details of the title to the property made available to the Electronic Workspace by the Land Registry.

### **31 Foreign Resident Capital Gains Withholding**

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 FRCGW remittance 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 FRCGW remittance.

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.

### **32 Residential off the plan contract**

This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).

No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.

If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the Conveyancing (Sale of Land) Regulation 2017 –

- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and

- 32.3.2 the claim for compensation is not a claim under this contract.

32.4 This clause does not apply to a contract made before the commencement of the amendments to the Division under the Conveyancing Legislation Amendment Act 2018.

## Additional conditions to Contract for sale of land

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### 33 Completion

- (a) Completion of the Contract shall take place on the later of :
  - i. Twenty one (21) days after the satisfaction of the Conditions Precedent pursuant to this contract; and
  - ii. Twenty one (21) days after the date of this contract.
- (b) If either party serves on the other a Notice to Complete, the party served shall not object to the notice on the ground that the time stipulated for completion is unreasonable if that time is not less than 14 days (336 hours) after the time of service of the notice. Without affecting any other right, a party who has issued a Notice to Complete can, by further notice given at least 72 hours before expiration of the Notice to Complete, withdraw it or extend it once by 7 days.
- (c) If a Notice to Complete was justified then the issuing party shall be entitled to an allowance of \$330.00 for the cost of such notice.

### 34 Failure to Complete by Completion Date

- (a) The purchaser shall pay to the vendor on completion in addition to the price an amount equal to: 10% x price x delay days ÷ 365 days.
- (b) "Delay days" means any days by which completion is delayed through no fault of the vendor.
- (c) "Price" in this clause shall be appropriately adjusted for any relevant period during which any part of the price has been released to the vendor.

### 35 Tax File Number

- (a) If the deposit is to be invested, the purchaser must notify the vendor's deposit holder of the purchaser's tax file number within five (5) business days after the date of this contract.
- (b) If the purchaser fails to notify the tax file number within the time specified, then all interest earned on the deposit must be paid to the vendor.

### 36 Acknowledgements

The purchaser represents and warrants to the vendor that:

- (a) in entering into this contract, the purchaser has not relied on any representations or warranties about the subject matter of this contract including, without limitation, any representations or warranties except as set out in this contract as to the fitness or suitability for any purpose of the Property or as to

any financial return or income to be derived from the Property or as to whether the Property is contaminated; and

- (b) in entering into this contract, the purchaser has relied on its own enquiries relating to and inspections of the Property including any geotechnical enquiries; and
- (c) the Purchaser will make their own investigations regarding the contours/ levels of the Property and any adjacent Property and any latent defects in the Property and it has not relied on any representation of the vendor in this regard.
- (d) the purchaser was not induced to enter into this contract by any warranty, representation or conduct of the type referred to in sub-clause (a), (b), (c) and (d) above and the purchaser will not make any objection, requisition or claim whatsoever in relation to the matters referred to in the subclauses of this clause above.

**37 Objections or Requisitions**

Notwithstanding the provisions of conditions 6, 7 and 8, any claim for compensation shall be deemed to be an objection or requisition for the purpose of condition 8 entitling the vendor to rescind this contract.

**38 Requisitions on Title**

The purchaser agrees that the only form of requisitions on title the purchaser may make pursuant to clause 5 shall be the Requisitions on Title attached to this contract and the purchaser accepts the answers to such requisitions annexed hereto.

**39 Fencing**

The purchaser acknowledges that they will not at any time make a claim on the vendor in relation to any contributory or otherwise costs regarding fencing under the Dividing Fences Act 1991.

**40 Estate Agent**

The purchaser hereby warrants that he has not been introduced to the property by the efforts, whether direct or indirect, of any commission agent except the agent (if any) referred to in the particulars and shall indemnify the vendor in respect of any claim made by any agent for commission arising from any such introduction in breach of this warranty.

**41 Caveat by purchaser**

- (a) The purchaser may lodge a caveat to protect its interests under this Contract provided that it does not prohibit the registration of the documents required to be registered on title to satisfy the Conditions Precedent.
- (b) The purchaser irrevocably appoints the vendor as its attorney solely in relation to executing a form of Withdrawal of Caveat for the Property after seven days of requesting the same from the purchaser and

not receiving the same where this contract is terminated or rescinded. This clause survives the termination or rescission of the contract.

- (c) The purchaser must, in the event that the vendor is delayed by a caveat lodged by the purchaser in registering anything on title that is required to be registered to satisfy the Conditions Precedent, provide to the vendor either a withdrawal of caveat or caveator's letter of consent to facilitate the vendor to register such document required.

#### 42 FIRB Warranty

- (a) The purchaser warrants that the provisions of the Foreign Acquisitions and Takeovers Act 1975 (Cth) do not apply to the purchaser or to this contract.
- (b) In the event of breach of the warranty in subclause (a) above, the Purchaser will indemnify the Vendor against any penalties, fines, legal costs, claims, loss or damage suffered in connection with that breach.

#### 43 Amendments to Printed Conditions

- (a) to the extent that these conditions are inconsistent with the Contract For Sale of Land ("printed conditions") than these conditions prevail to the extent of any inconsistency.
- (b) Clause 7.1.1 of the printed conditions is amended by replacing 5% with 1%.
- (c) Clause 28.3 of the printed conditions is deleted
- (d) in the event that there is not an agent listed on this contract than the *deposit holder* will be a solicitor, conveyance or licensed real estate agent appointed by the vendor.

#### 44 Services

The purchaser will, at the purchaser's expense, be responsible for the installation and/or amplification of all services to connect to those provided in the property and for any others including amplification of services to those provided pursuant to the vendors obligations to Council or any other authority.

#### 45 Mine Subsidence

If the property is in a mine subsidence area as designated by the mine subsidence board, the purchaser may rescind this contract and clause 19 applies if the owner of the improvements on the Property is not entitled to claim compensation from the Mine Subsidence Board in respect of the damage to the Property and/or improvements arising from mine subsidence and written communication from the Mine Subsidence Board to that effect will be conclusive evidence for the purposes of this clause.

#### 46 Cooling Off Period.

In the event that this contract is a contract regarding residential property than the purchaser must on or prior to the date of contract provide to the vendor a certificate in accordance with s66W of the Conveyancing Act (NSW) 1919.

**47 Encumbrances**

- (a) The property is sold subject to all registered dealings on title except for any encumbrance that is to be discharged at completion.
- (b) If a mortgage or charge is shown on the folio for the Property that would prevent the registration of the Transfer to the purchaser the vendor will provide in registrable form a discharge, release or withdrawal of the applicable mortgage, charge, caveat or encumbrance and the vendor will allow at completion the registration fees for such discharge or withdrawal.

**48 Conditions Precedent**

- (a) The obligations of the vendor to sell and the purchaser to purchase the property are subject to fulfillment of the following conditions:
  - i. The vendor procuring a determination from Council or other authority with standing to permit a subdivision thereby creating the Property on terms and conditions acceptable to the vendor ("the DA Condition") on or before the date that is six (6) months after the date of this contract. ("the DA Condition Sunset Date").
  - ii. The vendor procuring the registration of the Plan of Subdivision by the Registrar General thereby creating the Property ("the Plan Registration Condition") on or before the date that is eighteen (18) months after the date of the satisfaction of the DA Condition ("the Plan Registration Sunset Date").
  - iii. The vendor sending a notice to the purchaser that it has registered with LPI prior to completion, or has available to pass to the purchaser at completion, documentation in registrable form which will, upon registration with the Registrar General, release the Property from the operation of the Voluntary Planning Agreements ("the VPA Condition") by the Plan Registration Sunset Date.  
("the Conditions Precedent")
- (b) The parties agree that the Condition Precedent is for the benefit of the parties as follows:
  - i. The DA Condition- the vendor
  - ii. the Plan Registration Condition- the vendor
  - iii. the VPA Condition- the vendor

**49 Matters pertaining to the Conditions Precedent**

- (a) The parties must act in good faith and cooperate with each other to assist each other to satisfy the Conditions Precedent promptly after the date of this contract and in any event on or prior to the dates detailed herein.
- (b) The vendor may extend the Plan Registration Sunset Date by a further six months (in addition to any other rights of extensions detailed in this contract) by sending a written notice to the purchaser detailing such extension.
- (c) Clause 29 applies to the Conditions Precedent with the following amendments:

- i. Clause 29.6 is replaced with the following:

"In the event that an event involves an approval which is determined and the determination involves a condition that is unacceptable to a party who has the benefit of the provision than the party having the benefit of the condition may rescind within ten (10) business days after receipt of the determination of the consent containing the unsatisfactory condition."

- ii. The following words are inserted on the first line of clause 29.7.3 after the second appearance of the words "the date for completion":

"(with any reference to the event that has not occurred deleted)."

- (d) The parties acknowledge that the Vendor intends on the date of this deed to lodge two plans in order to create the property by virtue of the Plan of Subdivision.
- (e) In this deed where changes are permitted to a Plan of Subdivision , these conditions are taken to refer to any plans of subdivision contained herein and includes any associated instrument including a 88B instrument.

50 In the event that this contract is rescinded pursuant to clause 29 then from the date of rescission:

- (a) each party is relieved of any further obligations under this contract; and
- (b) no party will have a claim against the other except for antecedent breaches of this contract; and
- (c) clause 19.2 shall apply.

51 **Permitted Extensions**

- (a) In addition to any other rights of extension under this contract, the vendor may extend the Plan Registration Sunset Date, by the commensurate amount of delay incurred as a result of any of the following:
- i. inclement weather and any necessary dry out period; and
  - ii. a shortage of equipment or material necessary to complete the subdivision which could not have been reasonably foreseen by the vendor; and
  - iii. an alteration to the subdivision works required by Council or other statutory authority or delay by Council or other statutory authority; and
  - iv. an act of God; and
  - v. any delay by any authority if providing the necessary approvals to the vendor; and
  - vi. any events outside the reasonable control of the vendor.

52 **Changes to the Plan of Subdivision**

Changes to the Plan of Subdivision may be required by Council, the Registrar General of the Land and Property Information (or superseded body), the vendor or anyone else who has to approve the Plan of Subdivision. The purchaser will not object to any change that does not have a material adverse effect on the purchaser's use and enjoyment of the lot, the subject of this contract, or the following changes to the plan of subdivision:

- (a) the numbering of the lot;

- (b) an alteration in any length or area by a reduction in such length or area of up to 3%;
- (c) any further consolidation and/or subdivision of the proposed lots detailed in the plan of subdivision excluding the Property;
- (d) the number, numbering, position and dimension of other lots;
- (e) any changes permitted by printed clause 28, so that the above words shall not affect the meaning of that clause;

**53 Changes to Documents**

- (a) All documents, copies of which are annexed to this contract, may not be in a final form when this contract is entered into. The vendor may change any document which it considers appropriate or necessary, is required by any Authority or financier.
- (b) The purchaser will make no objection if the final document registered or entered into differs from the copy annexed to this contract.
- (c) Subject to the other provisions of this contract, the purchaser may rescind if the difference is not minor and has a materially adverse effect on the Property. The Plan of Subdivision and 88B instrument accompanying the Plan of Subdivision is deemed to be acceptable to the Purchaser on the date that is two (2) business days after the vendor serves a copy of the notification of the registration of the Plan of Subdivision on the purchaser.

**54 Drainage, Easements and Restrictions as to User**

The Property is sold subject to restrictions as to user and easements for drainage and services to be created upon the registration of the Plan of Subdivision. The purchaser shall make no requisition, objection or claim for compensation in respect of any such easements or restrictions that are required to obtain the final approval or consent of any body or authority, or to enable registration of the Plan of Subdivision, or as disclosed and/or permitted in this contract, or which are a minor change to the Plan of Subdivision.

**55 Services on the Land**

- (a) In the subdivision creating the Property there will be provision in accordance with the authorities requirements for
  - i. A point of connection for a low voltage supply of power;
  - ii. A junction for sewer; and
  - iii. Water mains for water supply; and
  - iv. Conduits and pits to facilitate the future owner's of the Property to apply for a telecommunications connection at a later date.
- (b) The purchaser will, at the purchaser's expense, be responsible for the installation and/or amplification (if required) of all services to connect to those provided by the vendor.

- (c) The vendor intends on the date of this deed to construct the sewer mains substantially in accordance with the draft sewer plans annexed. The parties acknowledge that the vendor may amend these draft plans provided that a connection point for the respective sewer mains is available for the Property to connect to at their own cost at a later date.

## 56 Rates

- (a) If separate council rates assessments have not issued for the Property by the date that is 3 business days prior to the Completion Date, then for the purposes of clause 14, the rates for each respective parcel of Property the subject of this contract are deemed to be as follows:
- i. Council Rates applicable to the Property-\$500 per rating cycle/quarter

and such rates are deemed to have been paid and shall be adjusted accordingly.

- (b) Notwithstanding any other clause in this contract, the vendor must pay within the time limited for payment, all assessments affecting the property in respect of council rates and water rates for the rating three monthly cycle (council rates) or four monthly cycle (water rates), as applicable, in which the Completion Date falls, and the purchaser shall upon completion of this contract, accept this undertaking and shall make no objection, requisition or delay completion of this contract by reason of such rates being undischarged.

## 57 Planning Certificate

- (a) The Purchaser acknowledges that the Property is derived from a subdivision of the Precedent Land, as detailed on the front page of this contract.
- (b) Subsequent to registration of the plan of subdivision with the Registrar General the Property will be allocated by Council an individual planning certificate.
- (c) The purchaser warrants that they are familiar with the planning certificates for the Precedent Land and in particular have satisfied themselves of the extent that the planning certificates of the Precedent Land apply to the Property, the vendor is not under any obligation to provide the purchaser with a planning certificate specific to the Property.

## 58 Electronic Settlement

- (a) If the parties agree to settle this sale electronically in accordance and compliance with the Electronic Conveyancing National Law by written notice to each other this clause will apply.
- (b) The provisions of this contract continue to apply as modified by the electronic settlement procedures unless for any reason a party notifies the other in writing that settlement can no longer be conducted electronically and there is a recognized exemption (together with a copy thereof) at which time the matter will proceed

as a paper settlement. In this event any disbursements incurred will be shared equally by the parties and adjusted at settlement and each party shall pay their own costs.

- (c) In the event the parties have elected to conduct the matter via PEXA, within seven (7) days of exchange or in the event that this contract is of an unregistered lot, within seven (7) days after the registration of the plan of subdivision creating the Property, the vendor will create and populate an electronic workspace for the matter, including the date and time of settlement and invite the purchaser and any discharging mortgagee to join, failing which the purchaser may create the workspace.
- (d) Within two (2) business days of receipt of the invitation to join the workspace the purchaser must join and create an electronic transfer and invite any incoming mortgagee to join the workspace.
- (e) The purchaser must stamp and validate the transfer within five (5) business days after the date of the creation of the PEXA workspace. This is an essential term of the contract solely for the benefit of the Vendor.
- (f) Anything that cannot be delivered electronically and the other party is entitled to receive at settlement (including an order on the agent, bank guarantees or relevant lease documentation) must be provided to the other party (if a document) in scan form prior to completion by loading into the PEXA workspace and if the original is required by posting to the other party to hold in escrow prior to completion together with an irrevocable authority to release the original document to the other party following financial completion. In the event that a party requests in writing that a document be returned as settlement has not completed as planned, the other party must immediately return the document to the requesting party.
- (g) Each party must undertake its best endeavours to:
  - (i) the settlement by the date that is ten (10) business days prior to the completion date and they must ensure any bank associated with their role in the contract also accepts the settlement time by the date that is ten (10) business days prior to the completion date; and
  - (ii) ensure that all documents are completed and stamped and all financial matters are complete (other than the loading of funds) the day prior to completion.
- (h) Any notice served on a party in the electronic workspace must also be served in accordance with the condition of this contract relating to service of notices.

## 59 Residential Withholding of GST – NOTICE

- (a) The parties acknowledge that the supply under this contract is a supply of new residential premises or potential residential land under the A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 (the Act) and this clause is a Vender notice in accordance with the Act requiring the purchaser's payment of a proportion calculated in accordance with this contract and notice directly to the Australian Taxation Office (ATO) under the Act.
- (b) The parties agree the vendor has complied with its obligations under the Act by virtue of this clause and the disclosure on page 2 of the Contract.

- (c) The purchaser warrants they will complete, in accordance with the ATO's requirements, the GST property settlement withholding notification form (Form 1)(or as superseded by the ATO) within two (2) business days of the date of contract.
- (d) The purchaser must, within five (5) business days after the date of contract, notify the Vendor in writing of the LRN and PRN assigned to the transaction by the ATO together with providing a copy of Form 1 to facilitate the reference necessary for the payment of the GST to the ATO.
- (e) The purchaser will provide a copy of the GST Property Settlement Date Confirmation Form to the vendor on or prior to completion. The purchaser warrants they will ensure the form is lodged with the ATO no later than the completion date.
- (f) Clause 13.13 of this contract applies to the supply under this contract with the exception that clause 13.13.3 is varied such that the vendor will receive from the purchaser at completion and will then forward the settlement cheque to the ATO in the event of a manual settlement, as agent for the purchaser.
- (g) The purchaser is liable for payment of one eleventh (1/11th) of the Purchase Price of this Contract on account of the Residential Withholding Component of the Purchase Price to the ATO.
- (h) This clause applies to contracts entered into after 1 July 2018, or in the event that the vendor elects, by sending as written notice to the purchaser, to pay the GST to the ATO, on completion of this Contract.

## 60 Guarantee (Company Purchaser)

For the purposes of this contract, "Guarantor" means the person or persons who are officers of the purchaser company and who have witnessed or signed this contract for the purchaser or who have otherwise indicated that they give this guarantee.

The Guarantor gives this guarantee and indemnity in consideration of the vendor agreeing to enter into this contract.

The Guarantor unconditionally and irrevocably guarantees to the vendor the due and punctual performance and observance by the purchaser of the purchaser's obligations under this contract.

As a separate undertaking the Guarantor unconditionally and irrevocably indemnifies the vendor against all liability or loss arising from and any expenses incurred in connection with, a breach by the purchaser of this contract. It is not necessary for the vendor to incur expense or make payment before enforcing that right of indemnity.

As a separate undertaking the Guarantor unconditionally and irrevocably indemnifies the vendor against all liability or loss arising from, and any expenses incurred in connection with, a representation or warranty by the purchaser in this contract being incorrect or misleading.

The Guarantor waives any right it has of first requiring the vendor to commence proceedings or enforce any other right against the purchaser or any other person before claiming under this guarantee and indemnity.

The liabilities of the Guarantor under this clause as a guarantor indemnifier or principal debtor and the rights of the vendor under this guarantee and indemnity are not affected by anything which might otherwise affect them at law or in equity including but not limited to, one or more of the following:

- (a) the vendor granting time or indulgence to, compounding or compromising with or releasing the purchaser;
- (b) acquiescence, delay, acts, omissions or mistakes on the part of the vendor;
- (c) any novation of the right of the vendor;
- (d) any variation of this contract, or
- (e) the validity or unenforceability of an obligation of a person other than the Guarantor.

The Guarantor may not without the consent of the vendor:

- (a) raise a set off or counterclaim available to it or the purchaser against the vendor in reduction of its liability under this guarantee and indemnity;
- (b) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any security or guarantee held by the vendor in connection with this contract; or
- (c) prove in competition with the vendor if a liquidator, provisional liquidator, receiver, official manager or trustee in bankruptcy is approved in respect of the purchaser or the purchaser is otherwise unable to pay the purchaser's debts when they fall due.

If a claim that a payment or transfer to the vendor in connection with this contract or this guarantee or indemnity is void or voidable (including, but not limited to), a claim under laws relating to liquidation, insolvency or protection of creditors) is upheld, conceded or comprised, then the vendor is entitled immediately as against the Guarantor to the rights to which it would have been entitled under this guarantee and indemnity, if the payment or transfer had not occurred.

This clause is an essential term of this contract.

If there is more than one person constituting the Guarantor then they give these covenants jointly and severally.

Signed by the Guarantor )

In the presence of: ) .....

Guarantor

.....  
Witness

Signed by the Guarantor )

In the presence of: ) .....

Guarantor

.....  
Witness

## Schedule One- Plan of Subdivision (Property)

## Schedule Two- Plan of Subdivision (Development Lots)

Office Use Only

Office Use Only

Registered:

Title System:

**PLAN OF SUBDIVISION OF LOT 2**  
**DP1256011**

**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

LGA: MAITLAND  
 Locality: LOCHINVAR  
 Parish: GOSFORTH  
 County: NORTHUMBERLAND

Survey Certificate  
 THOMAS F CAMPBELL  
 I, .....  
 of Delfs Lascelles Pty Ltd, P.O. Box 77 Broadmeadow 2292

a surveyor registered under the *Surveying and Spatial Information Act 2002*, certify that:

- \*(a) The land shown in the plan was surveyed in accordance with the *Surveying and Spatial Information Regulation 2017*, is accurate and the survey was completed on ..... , or
- \*(b) ~~The part of the land shown in the plan (\*being \*excluding \*\*~~ ..... ) was surveyed in accordance with the *Surveying and Spatial Information Regulation 2017*, the part surveyed is accurate and the survey was completed on ..... the part not surveyed was compiled in accordance with that Regulation, or
- \*(c) ~~The land shown in this plan was compiled in accordance with the *Surveying and Spatial Information Regulation 2017*.~~

Datum Line: ..... 'X' - 'Y' .....

Type: \*Urban/\*Rural

The terrain is \*Level Undulating / \*Steep Mountainous.

Signature: ..... Dated: .....

Surveyor Identification No: 8704

Surveyor registered under the *Surveying and Spatial information Act 2002*

\* Strike through if inapplicable.

\*\* Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.

Crown Lands NSW/Western Lands Office Approval

I, ..... (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.

Signature: .....

Date: .....

File Number: .....

Office: .....

**Subdivision Certificate**

I, ..... \*Authorised Person/\*General Manager/\*Accredited Certifier, certify that the provisions of section 109J of the *Environmental Planning and Assessment Act 1979* have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.

Signature: .....

Accreditation number: .....

Consent Authority: .....

Date of endorsement: .....

Subdivision Certificate number: .....

File number: .....

Plans used in the preparation of survey/compilation.

DP 1034974

Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.

IT IS INTENDED TO DEDICATE THE ROADS & ROAD WIDENING TO THE PUBLIC AS PUBLIC ROAD SUBJECT TO THE EASEMENT FOR PIPELINE 4 & 6 WIDE (DP1232943).

IT IS INTENDED TO DEDICATE LOT 128 TO THE PUBLIC AS DRAINAGE RESERVE.

Surveyor's Reference: 18117\_DP1B(Draft)\_R7\_200311

Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A

Office Use Only

Registered:

**PLAN OF SUBDIVISION OF LOT 2**  
**DP1256011**

Subdivision Certificate number : .....

Date of Endorsement : .....

Office Use Only

**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

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

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

## SCHEDULE OF ADDRESSES

LOT	STREET No.	ROAD NAME	ROAD TYPE	LOCALITY
101				LOCHINVAR
102				LOCHINVAR
103				LOCHINVAR
104				LOCHINVAR
105				LOCHINVAR
106				LOCHINVAR
107				LOCHINVAR
108				LOCHINVAR
109				LOCHINVAR
110				LOCHINVAR
111				LOCHINVAR
112				LOCHINVAR
113				LOCHINVAR
114				LOCHINVAR
115				LOCHINVAR
116				LOCHINVAR
117				LOCHINVAR
118				LOCHINVAR
119				LOCHINVAR
120				LOCHINVAR
121				LOCHINVAR
122				LOCHINVAR
123				LOCHINVAR
124				LOCHINVAR
125				LOCHINVAR
126				LOCHINVAR
127				LOCHINVAR
128				LOCHINVAR

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919, AS AMENDED, IT IS INTENDED TO CREATE:-

1. RESTRICTION ON THE USE OF LAND
2. EASEMENT TO DRAIN WATER 1.5 WIDE (BA)
3. RESTRICTION ON THE USE OF LAND

If space is insufficient use additional annexure sheet

Registered:

Office Use Only

**PLAN OF SUBDIVISION OF LOT 2  
DP1256011**

Subdivision Certificate number : .....

Date of Endorsement : .....

Office Use Only

**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

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

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

EXECUTED by )  
LOCHINVAR DOWNS PTY LTD )  
(ACN 622 571 831) )  
in accordance with Section 127 of )  
the Corporations Act )

.....  
Name:.....  
Name:

Position:

Position:

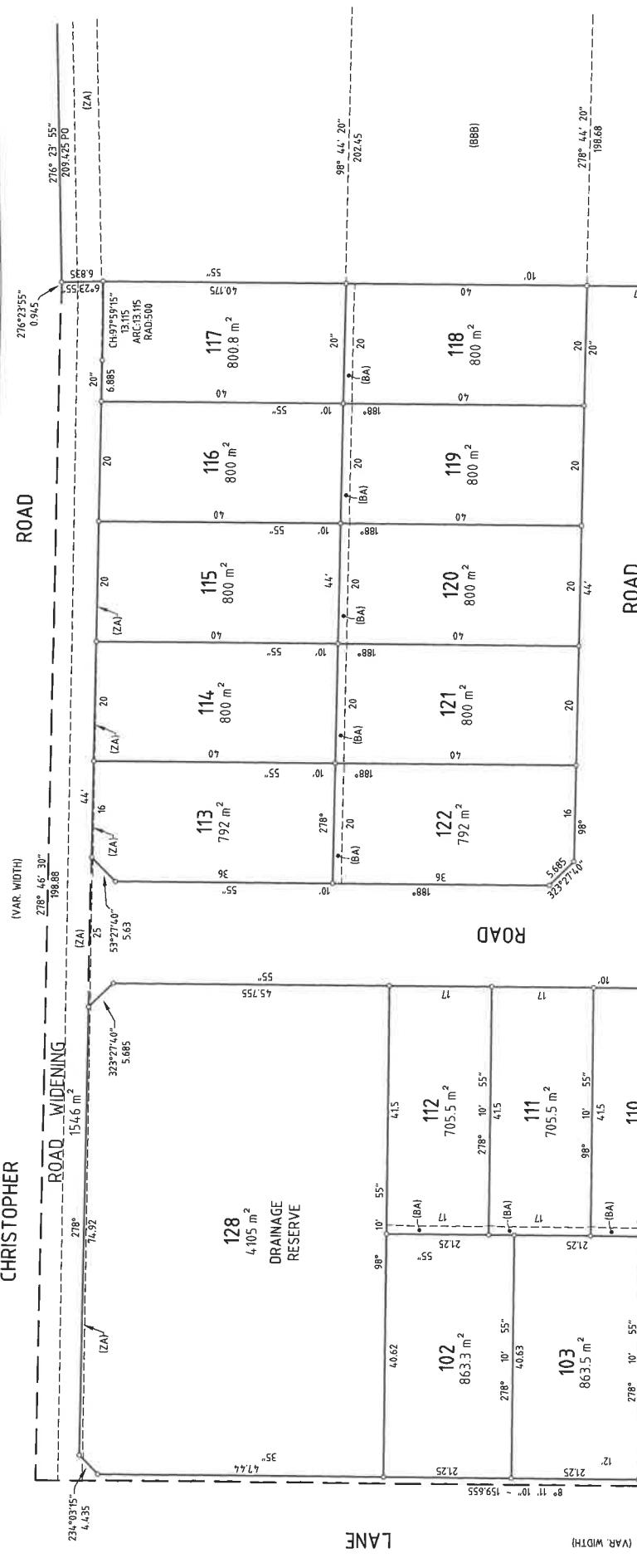
.....  
RICHARD KARL HVIRF

If space is insufficient use additional annexure sheet

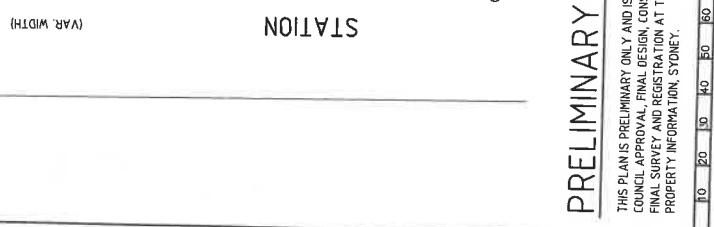


M.G.A.  
(SCIMIS)

## CHRISTOPHER



## STATION

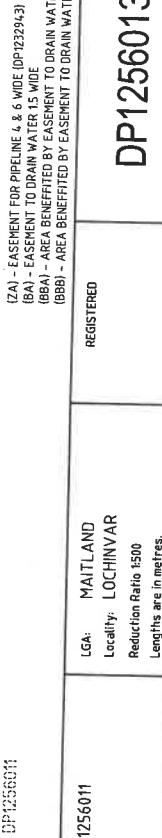


## PRELIMINARY ONLY

This plan is preliminary only and is subject to council approval, final design, construction, final survey and registration at the land and property information, sydney.

Name: THOMAS F CAMPBELL  
Date: Reference: 18117\_DPB(Draft)\_R7\_200311  
Table of mm

PLAN OF SUBDIVISION OF LOT 2 DP1256011  
SURVEYOR: THOMAS F CAMPBELL  
Name: THOMAS F CAMPBELL  
Date: Reference: 18117\_DPB(Draft)\_R7\_200311  
Table of mm



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

(Sheet 1 of 7 sheets)

**Plan:** Plan of Subdivision of LOT 2 DP1256011 covered by Subdivision Certificate dated

**Full name and address of the owner of the land:**  
 Lochinvar Downs PTY LTD  
 (ACN 622 571 831)  
 1 Hartley Drive  
 Thornton NSW 2322

### PART 1 - CREATION

<b>Number of item shown in the intention panel on the plan</b>	<b>Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.</b>	<b>Burdened lot(s) or parcel:</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities:</b>
1	Restriction on the Use of Land	102 to 127 inclusive	Every of lot except lot 101 and lot 128
2	Easement to drain water 1.5 wide (BA)	107 108 109 110 111 112 118 119 120 121 122	Part of 3/1256011 designated (BBA) Part of 3/1256011 designated (BBA), 107 Part of 3/1256011 designated (BBA), 107, 108 Part of 3/1256011 designated (BBA), 107, 108, 109 Part of 3/1256011 designated (BBA), 107, 108, 109, 110 Part of 3/1256011 designated (BBA), 107, 108, 109, 110, 111 Part of 101 designated (BBB) Part of 101 designated (BBB), 118 Part of 101 designated (BBB), 118, 119 Part of 101 designated (BBB), 118, 119, 120 Part of 101 designated (BBB), 118, 119, 120, 121
3	Restriction on the Use of Land	103, 106, 108, 109, 110, 113, 114, 117, 120, 121, 123, 124, 125, 126, 127	Maitland City Council & Part of 3/1256011 designated (BBC) on the Plan

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

(Sheet 2 of 7 sheets)

**Plan:** Plan of Subdivision of LOT 2 DP1256011 covered by Subdivision Certificate dated

## **PART 2 – TERMS**

**1. Terms of the easement, profit a prendre, restriction, or positive covenant firstly referred to in the abovementioned plan.**

### **Dwelling Houses**

- 1.1 No dwelling house may be erected or permitted to remain erected on any lot burdened having a total internal floor area of less than 120 m<sup>2</sup> exclusive of car accommodation, external landings and patios.
- 1.2 No dwelling house shall be erected or permitted to remain erected on a lot burdened with external walls of other than face brick, brick veneer, stone, glass, timber or concrete treated with painted texture render.
- 1.3 No dwelling house shall be erected or permitted to remain erected on any lot burdened having a roof of other than tiles (terracotta or cement) or non-reflective Colorbond. Untreated zincalume is prohibited.
- 1.4 No existing dwelling house or relocatable type dwelling shall be partially or wholly moved to, placed on, re-erected or permitted to remain on any lot burdened.

### **Ancillary Buildings**

- 1.5 No ancillary building, not being the main dwelling house, shall be erected or permitted to remain on a lot burdened unless: -
  - (a) It is situate no closer to the street frontage than the dwelling house;
  - (b) It has an internal floor area of less than 80m<sup>2</sup>;

(An ancillary building does not include lawn lockers, pergolas, greenhouses, cubby houses or other utility type structures.)

### **Fencing of Common Boundaries**

- 1.6 No fence shall be erected or permitted to remain on the boundary of a lot burdened if the same: -
  - (a) Is erected between the building line, as fixed by the Maitland City Council, and any adjoining public road that exceeds 1,200 mm in height. This restriction shall not prevent or preclude the fencing of boundaries of a lot common with a pathway or public reserve up to 1,800 mm in height;

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

(Sheet 3 of 7 sheets)

**Plan:** Plan of Subdivision of LOT 2 DP1256011 covered by Subdivision Certificate dated

- (b) Is constructed on a boundary behind the building line as fixed by the Maitland City Council that exceeds 1,800 mm in height.
  - (c) For corner lots, fencing of the secondary frontage is constructed of materials other than dressed timber or rough sawn lapped and capped timber.
- 1.7 No fence shall be erected on a lot burdened unless it is erected without expense to Lochinvar Downs PTY LTD, its successors and permitted assigns other than Purchasers on sale.
- 1.8 No fence shall be erected on a lot burdened unless it is constructed of dark-toned, non-reflective material.

**Prohibited Activities**

- 1.9 No obnoxious, noisy or offensive occupation, trade or business shall be conducted or carried out on any lot burdened.
- 1.10 No structure of a temporary character, basement, tent, shack, garage, trailer, camper, caravan or any other building may be used at any time as residential accommodation on the lot burdened.
- 1.11 No temporary structure, caravan, camper or detached ancillary building may be permitted to remain erected on a lot burdened prior to the issue of an Occupation Certificate for the dwelling house erected on the lot burdened.
- 1.12 No motor truck, lorry or semi-trailer with a load carrying capacity exceeding 2.5 tonnes shall be parked or permitted to remain on any lot burdened unless the same is being used in connection with the erection of a dwelling on the relevant lot burdened and only prior to occupation of the dwelling.
- 1.13 No boat, trailer, caravan, camper or other vehicle intended to be towed may be placed, parked, stored or permitted to remain on the lot burdened unless same is located behind the dwelling house erected on the lot burdened.
- 1.14 No advertising or hoarding sign including any "For Sale" sign shall be displayed or erected on any lot burdened for a period of one year from the date of transfer by Lochinvar Downs PTY LTD without the prior written consent of Lochinvar Downs PTY LTD.

**Acknowledgment of Covenants**

- 1.15 The proprietor of a burdened lot acknowledges that prior to purchasing the subject lot they have made their own inquiries about the nature and effect of these covenants.

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

(Sheet 4 of 7 sheets)

**Plan:** Plan of Subdivision of LOT 2 DP1256011 covered by Subdivision Certificate dated

- 1.16 The proprietor of a burdened lot acknowledges that the burden of the covenants in this instrument run with the lot for the benefit of each other proprietor of a lot in a subdivision, excluding land which is not residential, and shall be enforceable against the proprietor of each and every lot from time to time so burdened.
- 1.17 The proprietor of each lot acknowledges that the covenants are separate from each other and if any covenant is declared invalid or unenforceable then the remaining restrictive covenants will not be affected and each remaining covenant will be valid and enforceable to the full extent permitted by law.

Any release, variation or modification of these restrictions will be made and done in all respects at the cost and expense of the person or persons requesting same.

The name of the person having the power to release, vary or modify this Restriction on the Use of Land is Lochinvar Downs PTY LTD and if Lochinvar Downs PTY LTD no longer exist or is not the registered proprietor of the land comprised in the plan of subdivision then the person or persons for the time being the registered proprietor of land in the plan of subdivision within 50 metres of the lot burdened shall be empowered to release or vary the restriction.

**2. Terms of the easement, profit a prendre, restriction, or positive covenant thirdly referred to in the abovementioned plan.**

- 2.1 For the purposes of this clause:
  - (a) "application" includes a development application and an application for a complying development certificate (as defined in the Environmental Planning and Assessment Act 1979); and
  - (b) "relevant approval body" includes the consent authority and an accredited certifier (as defined in the Environmental Planning and Assessment Act 1979).
- 2.2 Not more than one main residential dwelling shall be erected on any lot burdened.
- 2.3 Without limiting the subclause 2.2 above, the owner of the burdened lot must not make any application, or consent to an application being made on its behalf, requesting consent from the relevant approval body to construct more than one residential dwelling on the burdened lot.
- 2.4 The burdened lot must not be further subdivided.
- 2.5 Without limiting subclause 2.4 above, the owner of the burdened lot must not make any application, or consent to an application being made on its behalf, requesting consent from the relevant approval body to subdivide the burdened lot.
- 2.6 The benefit of this restriction on the use of land will cease to apply to any part of the benefited lot where Lochinvar Downs PTY LTD is no longer the registered proprietor of the land designated (BBC) in the Plan.

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

(Sheet 5 of 7 sheets)

**Plan:** Plan of Subdivision of LOT 2 DP1256011 covered by Subdivision Certificate dated

**MAITLAND CITY COUNCIL** by its )  
authorised delegate pursuant to s.377 )  
Local Government Act 1993 )

I certify that I am an eligible witness  
and that the delegate signed  
in my presence

.....  
Signature of delegate

.....  
Signature of Witness

.....  
Name of delegate (BLOCK LETTERS)

.....  
Name of Witness (BLOCK LETTERS)

.....  
Address of Witness (BLOCK LETTERS)

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

(Sheet 6 of 7 sheets)

**Plan:** Plan of Subdivision of LOT 2 DP1256011 covered by Subdivision Certificate dated

EXECUTED by **LOCHINVAR DOWNS PTY LTD (ACN 622 571 831)** )  
in accordance with Section 127 of the )  
Corporations Act )

Name:

Position:

Name:

Position:

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

(Sheet 7 of 7 sheets)

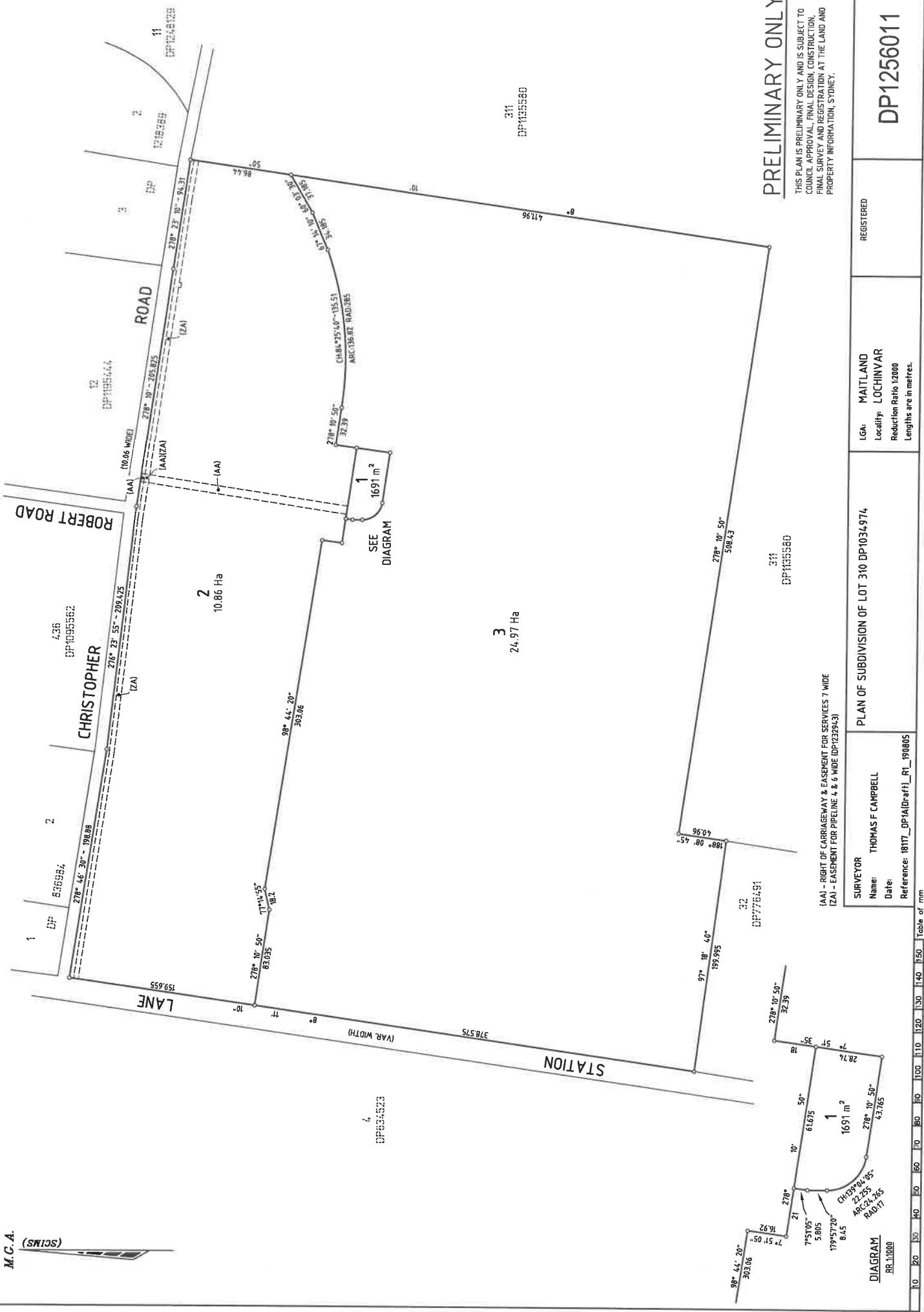
**Plan:**

Plan of Subdivision of LOT 2 DP1256011 covered by  
Subdivision Certificate  
dated

**RICHARD KARL HVIDF**

DRAFT

## Schedule Two- Plan of Subdivision (Development Lots)



<p>Office Use Only</p> <p>Registered:</p> <p>Title System:</p> <p><b>PLAN OF SUBDIVISION OF LOT 310 DP1034974</b></p>	<p>Office Use Only</p> <p><b>PRELIMINARY ONLY</b></p> <p>THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.</p>
<p>LGA: MAITLAND</p> <p>Locality: LOCHINVAR</p> <p>Parish: GOSFORTH</p> <p>County: NORTHUMBERLAND</p>	
<p>Survey Certificate</p> <p>I, ..... THOMAS F CAMPBELL of Delfs Lascelles Pty Ltd, P.O. Box 77 Broadmeadow 2292 a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>, certify that:</p> <p>(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, is accurate and the survey was completed on ..... , or</p> <p><del>(b) The part of the land shown in the plan (*being/*excluding ** ..... )</del> was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, the part surveyed is accurate and the survey was completed on ..... the part not surveyed was compiled in accordance with that Regulation, or</p> <p><del>(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>.</del></p> <p>Datum Line: ..... 'X' - 'Y' Type: *Urban/*Rural The terrain is *Level-Undulating / *Steep-Mountainous.  Signature: ..... Dated: ..... Surveyor Identification No: ..... 8704 Surveyor registered under the <i>Surveying and Spatial Information Act 2002</i></p> <p>* Strike through if inapplicable. ** Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</p>	
<p>Crown Lands NSW/Western Lands Office Approval</p> <p>I, ..... (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p>Signature: .....</p> <p>Date: .....</p> <p>File Number: .....</p> <p>Office: .....</p>	
<p>Subdivision Certificate</p> <p>I, ..... *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of section 109J of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.</p> <p>Signature: .....</p> <p>Accreditation number: .....</p> <p>Consent Authority: .....</p> <p>Date of endorsement: .....</p> <p>Subdivision Certificate number: .....</p> <p>File number: .....</p> <p>* Strike through if inapplicable</p>	
<p>Plans used in the preparation of survey/compilation. DP 1034974</p> <p>Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.</p>	
<p>Surveyor's Reference: 18117_DP1A(Draft)_R1_190805</p> <p>Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A</p>	

Office Use Only

Registered:

**PLAN OF SUBDIVISION OF LOT 310  
DP1034974**

Office Use Only

**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

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

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

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919, AS AMENDED, IT IS INTENDED TO CREATE:-

1. RIGHT OF CARRIAGeway & EASEMENT FOR SERVICES 7 WIDE (AA)

**SCHEDULE OF ADDRESSES**

LOT	STREET No.	ROAD NAME	ROAD TYPE	LOCALITY
1				
2				
3				

EXECUTED by )  
 LOCHINVAR RIDGE PTY LTD )  
 (ACN 622 571 831) )  
 in accordance with Section 127 of )  
 the Corporations Act )

.....  
Name:.....  
Name:

Position:

Position:

RICHARD KARL HVIRF

If space is insufficient use additional annexure sheet

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

(Sheet 1 of 4 sheets)

Plan: Plan of Subdivision of LOT 310 DP1034974 covered by Subdivision Certificate dated

Full name and address  
of the owner of the land:  
Lochinvar Ridge PTY LTD  
(ACN 622 571 831)  
1 Hartley Drive  
Thornton NSW 2322

#### PART 1 - CREATION

Number of item shown in the intention panel on the plan	Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel:	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Right of Carriageway & Easement for Services 7 Wide (AA)	2	1

#### PART 2 – TERMS

1. Terms of the easement, profit a prendre, restriction, or positive covenant firstly referred to in the abovementioned plan.

Terms for the right of carriageway are as per Schedule 8 (Part 1) of the Conveyancing Act 1919.

Terms for easement for services are as per Schedule 8 (Part 11) of the Conveyancing Act 1919.

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

(Sheet 2 of 4 sheets)

**Plan:**

Plan of Subdivision of LOT 310 DP1034974 covered by  
Subdivision Certificate  
dated

**MAITLAND CITY COUNCIL** by its )  
authorised delegate pursuant to s.377 )  
Local Government Act 1993 )

I certify that I am an eligible witness  
and that the delegate signed  
in my presence

.....  
Signature of delegate

.....  
Signature of Witness

.....  
Name of delegate (BLOCK LETTERS)

.....  
Name of Witness (BLOCK LETTERS)

.....  
Address of Witness (BLOCK LETTERS)

DRAFT

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

(Sheet 3 of 4 sheets)

Plan: Plan of Subdivision of LOT 310 DP1034974 covered by  
Subdivision Certificate  
dated

EXECUTED by LOCHINVAR RIDGE )  
PTY LTD (ACN 622 571 831) )  
in accordance with Section 127 of the )  
Corporations Act )

Name:

Position:

Name:

Position:

DRH

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

(Sheet 4 of 4 sheets)

Plan: Plan of Subdivision of LOT 310 DP1034974 covered by Subdivision Certificate dated

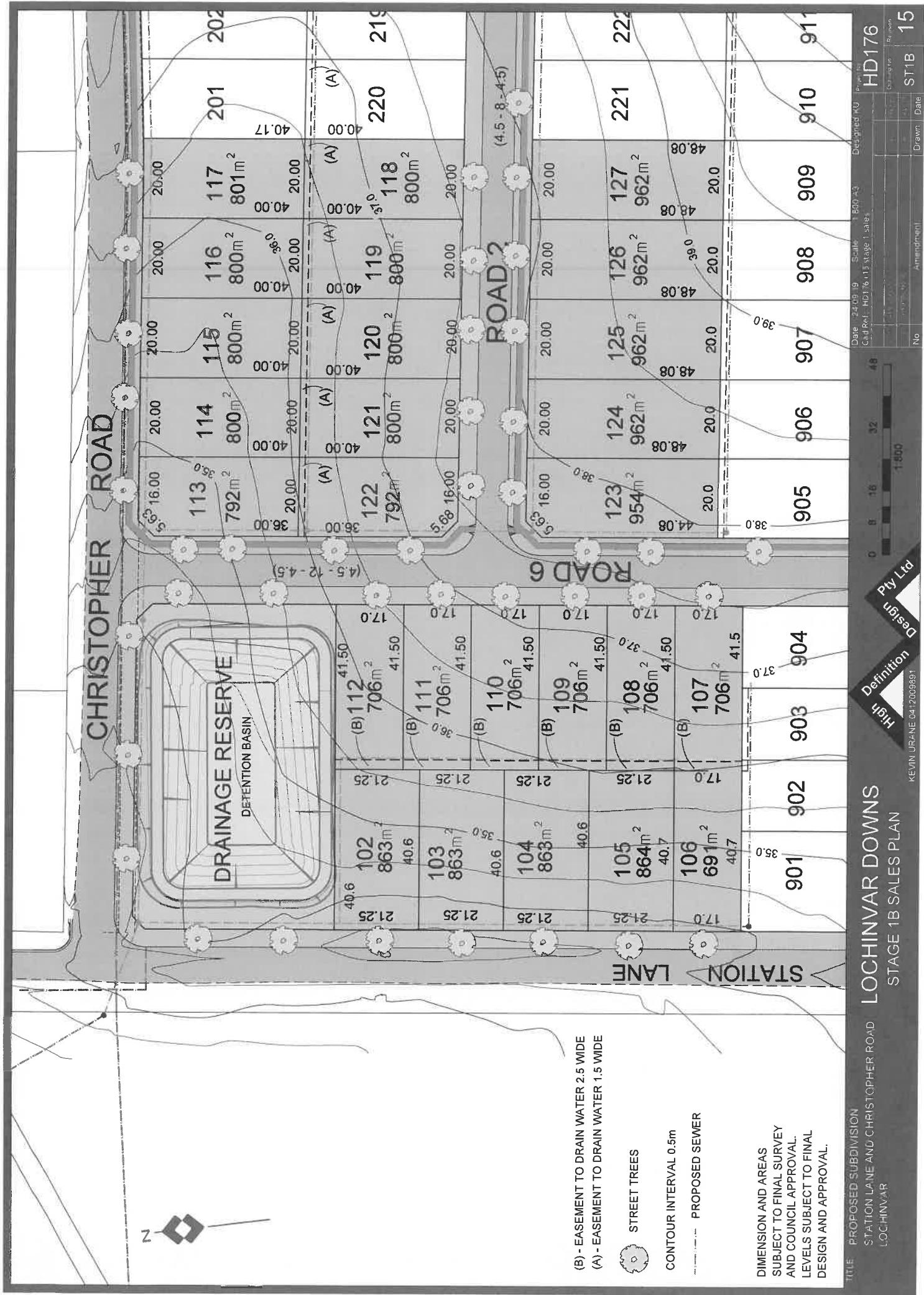
RICHARD KARL HVIRF

DRAFT

Sewer Plan

# CHRISTOPHER ROAD

## DRAINAGE RESERVE DETENTION BASIN



TITLE: PROPOSED SUBDIVISION  
STATION LANE AND CHRISTOPHER ROAD  
LOCHINVAR  
LOT 15

LOCHINVAR DOWNS  
STAGE 1B SALES PLAN

Hig  
Definition  
Design  
Pty Ltd

Date: 24/09/19 Scale: 1:500-43  
Card Ref: HD116 (1/3 stage 1 sale)  
No: 48  
Drawing: 1-800  
Amendment:  
Drawn: Date:

Designed by: KU  
Check by: R. Brown  
Drawn by: Date:  
Title: ST1B  
Page No: 15

## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor:  
Purchaser:  
Property:  
Dated:

- 
- Possession and tenancies**
1. Vacant possession of the property must be given on completion unless the Contract provides otherwise.
  2. Is anyone in adverse possession of the property or any part of it?
    - (a) What are the nature and provisions of any tenancy or occupancy?
    - (b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attorney.
    - (c) Please specify any existing breaches.
    - (d) All rent should be paid up to or beyond the date of completion.
    - (e) Please provide details of any bond together with the Rental Bond Board's reference number.
    - (f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
  4. Is the property affected by a protected tenancy? (A tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948*)
  5. If the tenancy is subject to the *Residential Tenancies Act 1987*:
    - (a) has either the vendor or any predecessor or the tenant applied to the Residential Tenancies Tribunal for an order?
    - (b) have any orders been made by the Residential Tenancies Tribunal? If so, please provide details.
- Title**
6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.
  7. On or before completion, any mortgage or caveat or writ must be discharged, withdrawn or cancelled as the case may be or, in the case of a mortgage or caveat, an executed discharge or withdrawal handed over on completion.
  8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
  9. When and where may the title documents be inspected?
  10. Are the inclusions or fixtures subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged prior to completion or title transferred unencumbered to the vendor prior to completion.
- Adjustments**
11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
  12. Is the vendor liable to pay land tax or is the property otherwise charged or liable to be charged with land tax? If so:
    - (a) to what year has a return been made?
    - (b) what is the taxable value of the property for land tax purposes for the current year?
- Survey and building**
13. Subject to the Contract, survey should be satisfactory and show that the whole of the property is available and that there are no encroachments by or upon the property and that all improvements comply with local government/planning legislation.
  14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
  15. (a) Have the provisions of the *Local Government Act*, the *Environmental Planning and Assessment Act 1979* and their regulations been complied with?  
(b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?  
(c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.  
(d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.  
(e) In respect of any residential building work carried out in the last 7 years:
    - (i) please identify the building work carried out;
    - (ii) when was the building work completed?
    - (iii) please state the builder's name and licence number;
    - (iv) please provide details of insurance under the *Home Building Act 1989*.
16. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property?

17. If a swimming pool is included in the property:
- (a) when did construction of the swimming pool commence?
  - (b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
  - (c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
  - (d) are there any outstanding notices or orders?
  - (a) To whom do the boundary fences belong?
  - (b) Are there any party walls?
  - (c) If the answer to (b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
  - (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
  - (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922*?

**Affectations**

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

**Capacity**

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

**Requisitions and transfer**

25. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
26. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
27. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
28. The purchaser reserves the right to make further requisitions prior to completion.
29. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at completion date.

## ANSWERS TO REQUISITIONS ON TITLE

Vendor: The vendor on the front page of this contract  
Purchaser: The purchaser on the front page of this contract  
Property: The Lot on the front page of this contract  
Date: The date of this contract

1. Noted
2. No
3. Not Applicable
4. Not Applicable
5. Not Applicable
6. Noted
7. Noted
8. Not as far as the Vendor is aware
9. Mortgagee by Appointment
10. Not Applicable
11. Vendor relies on the Contract
12. Purchaser should rely on their own enquiries
13. Noted
14. No
15. a) Vendor presumes so b) Not Applicable c) No d) Not Applicable e) Not Applicable
16. Not as far as Vendor is aware.
17. Not Applicable.
18. a) If there are any, presumably the adjoining owners b) Not Applicable c) Not Applicable d) No e) No
19. No
20. No
21. No
22. The Vendor relies on the Contract.
23. Not As far as the Vendor is aware.
24. Not Applicable.
25. Not Applicable
26. Not Applicable
27. Noted
28. Noted but not admitted
29. Noted but not admitted



LAND  
REGISTRY  
SERVICES

# Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 310/1034974

SEARCH DATE	TIME	EDITION NO	DATE
15/7/2019	2:04 PM	7	22/11/2018

## LAND

LOT 310 IN DEPOSITED PLAN 1034974  
AT LOCHINVAR  
LOCAL GOVERNMENT AREA MAITLAND  
PARISH OF GOSFORTH COUNTY OF NORTHUMBERLAND  
TITLE DIAGRAM DP1034974

## FIRST SCHEDULE

LOCHINVAR RIDGE PTY LTD (T AN52055)

## SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 AM966158 EASEMENT FOR PIPELINE 4 & 6 WIDE AFFECTING THE PART DESIGNATED (G) IN DP1232943
- 3 AN52056 MORTGAGE TO RICHARD KARL HVIRF
- 4 AN876028 PLANNING AGREEMENT PURSUANT TO SECTION 7.6 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## NOTATIONS

UNREGISTERED DEALINGS: NIL

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

1819

PRINTED ON 15/7/2019

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.



Form: 01TG  
Release: 3-1

**TRANSFER**  
**GRANTING EASEM**  
New South Wales  
Real Property Act 1900

AM966158V



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

(A) TORRENS TITLE	Servient Tenement  Folio Identifier 310/1034974	Dominant Tenement  Easement in Gross pursuant to s 88A Conveyancing Act 1919	
(B) LODGED BY	Document Collection Box 47 V	Name, Address or DX, Telephone, and Customer Account Number if any  H.M. Allen & CO. LLPN DX 437 Sydney 123012 E Ph 9232 3652  Reference: HW2009-1837	CODE  TG
(C) TRANSFEROR	Richard Karl Hvirf		
(D)	The transferor acknowledges receipt of the consideration of \$ 12,000.00 and transfers and grants—		
(E) DESCRIPTION OF EASEMENT	Easement for pipeline 4 and 6 wide shown as (G) in DP1232943 on the terms set out in Annexure A.		
(F)	out of the servient tenement and appurtenant to the dominant tenement.		
(G) TRANSFeree	Encumbrances (if applicable): Stockland Development Pty Limited  Hunter Water Corporation ABN 46 228 513 446		

DATE 3 NOVEMBER 2017

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

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

Signature of witness:

RALPH KEITH WARD  
243 HORN ST  
MELBOURNE

Signature of transferor:

I certify that I am an eligible witness and that the transferee's attorney signed this dealing in my presence.  
[See note\* below].

Certified correct for the purposes of the Real Property Act 1900 by the transferee's attorney who signed this dealing pursuant to the power of attorney specified.

Signature of witness:

Name of witness: MARK RAYMOND HICKEY  
Address of witness:

36 Honeysuckle Drive  
Newcastle NSW 2300

Signature of attorney:

Attorney's name:  
Signing on behalf of:  
Power of attorney-Book:  
-No.:  
750

Peter James Kembrey  
Hunter Water Corp  
4695  
750

## Annexure 'A' to Transfer Granting Easement

Parties: **Richard Karl Hvirf**  
**Hunter Water Corporation ABN 46 228 513 446**

Dated: **3 NOVEMBER 2017**

---

### Easement for Pipeline Terms

#### Part A Definitions and interpretation

- 1 (a) The following terms have the following meanings:

**Ancillary Works** means works ancillary to the Pipeline whether above, on or below ground.

**Authorised Users** means Hunter Water's:

- (i) agents;
- (ii) employees;
- (iii) successors and assigns which are authorised to carry out the functions under the *Hunter Water Act 1991*; and
- (iv) All other Persons authorised to act on its or their behalf to do all things reasonably necessary or appropriate to carry out its functions under the *Hunter Water Act 1991*

**Burdened Owner** means the owner for the time being of the Lot Burdened and any Person having an estate or interest in the Lot Burdened.

**Easement Site** means that part of the Lot Burdened shown as easement for Pipeline on any plan registered with the New South Wales Department of Lands.

**Hunter Water** means the owner of the Pipeline and Ancillary Works, its successors and assigns.

**Lot Burdened** means the land over which the easement is granted.

**Person** includes a body corporate.

**Pipeline(s)** means a pipeline or pipelines for the conveyance of water, recycled water, effluent or sewerage whether above, on or below the ground and all associated apparatus and equipment and any ancillary works.



## Part B

### Easement for Pipeline

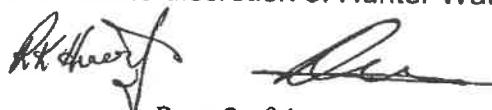
2 Hunter Water and its Authorised Users may:

- (a) Construct, lay, maintain, repair, renew, cleanse, inspect, replace, divert or alter the position of any Pipeline or any Ancillary Works in the Easement Site; and
- (b) Convey or permit the conveyance of water, recycled water, effluent or sewerage through the Pipeline within the Easement Site.

## Part C

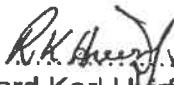
### General provisions of easement

- 3 For the purpose of exercising its rights under this easement, Hunter Water and its Authorised Users, may:
  - (a) enter the Lot Burdened, with or without vehicles, plant and equipment, for any purpose permitted by this easement.
  - (b) do anything reasonably necessary to obtain access to and pass along to the Easement Site.
  - (c) do anything reasonably necessary for the exercise of Hunter Water's rights under this easement.
- 4 The Burdened Owner acknowledges that ownership of any Pipeline or other Ancillary Works located in the Easement Site remains with Hunter Water.
- 5 Hunter Water covenants with the Burdened Owner that:
  - (a) in exercising its rights under this easement, it will procure that as little damage as practicable is done to the Lot Burdened;
  - (b) it will procure that any damage caused to the surface of the Lot Burdened is restored as nearly as practicable to its original condition; and
  - (c) subject to its rights under this easement, it will procure that the Burdened Owner's reasonable use or occupation of the Lot Burdened is not impeded.
- 6 Subject to its foregoing rights under this easement, the Burdened Owner covenants with Hunter Water that it will not:
  - (a) do or allow anything which will interfere with, damage, or destroy the Pipeline or will interfere with the effective operation of the Pipeline or any Ancillary Work;
  - (b) obstruct Hunter Water in the exercise of its rights under this easement; or
  - (c) place any structures or improvements on the Easement Site without first seeking the consent in writing of Hunter Water which may be withheld in the absolute discretion of Hunter Water.



Executed by Richard Karl Hvirf  
in the presence of:

  
Signature of Witness

  
Richard Karl Hvirf

  
Name of Witness

  
Address of Witness

  
Name of Witness

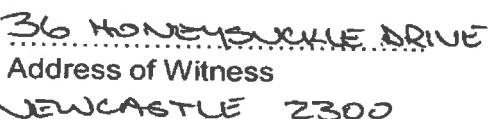
Signed and Delivered for and on  
behalf of Hunter Water Corporation by  
ABN 46 228 513 446  
Peter James Kembrey

it's duly constituted Attorney pursuant  
to Power of Attorney registered  
Book 4695 No 750

  
Attorney Signature

  
Witness Signature

  
Name of Witness

  
Address of Witness  
NEWCASTLE 2300

SCHEDULE OF EASEMENT AREAS			
FIELD IDENTIFIER	SEGMENT	AREA	
101/216128	(D)	574.3m <sup>2</sup>	
3/654631	(E)	314.6m <sup>2</sup>	
L/654523	(F)	94.7m <sup>2</sup>	
310/132550	(G)	282.2m <sup>2</sup>	
32/132550	(H)	480.2m <sup>2</sup>	
V/128389	(I)	262.3m <sup>2</sup>	
V/128389	(K)	103.5m <sup>2</sup>	

CLAUSE 61(2) OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2012			
MARK	EASTING	NORTHING	CLASS ORDER
P.M.16270	364.897.866	6 310 022.61	A 1
P.M.16277	364.897.866	6 310 022.61	B 2
P.M.16278	365.897.866	6 310 022.61	C 3
S.S.M.4468 FD	365.897.866	6 310 022.61	D 4
X' [ESTD]	365.897.866	6 310 022.61	E 5
Y'	365.897.866	6 310 022.61	F 6
Z'	365.897.866	6 310 022.61	G 7

COMBINED SCALE FACTOR = 1/99846 ZONE 56

16/04/2016

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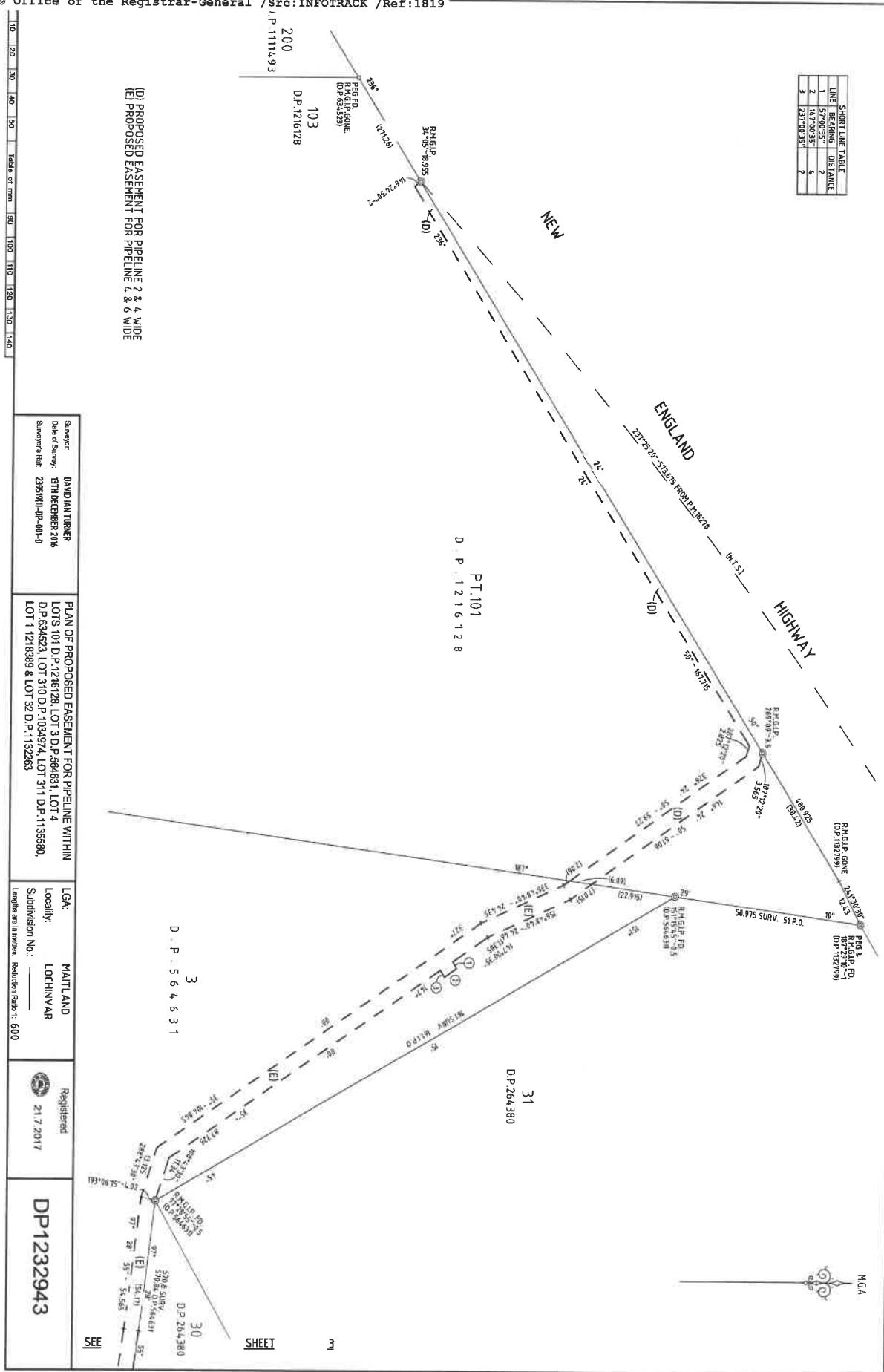
16/04/2016

16/04/2016

**WARNING: CREATING OR FOLDING WILL LEAD TO BEJECTION**

ePlan Sheet 2 of 8 sheets

SHORT LINE TABLE		
LINE	BEARING	DISTANCE
1	57°00'35"	2
2	147°00'35"	4
3	237°00'35"	2



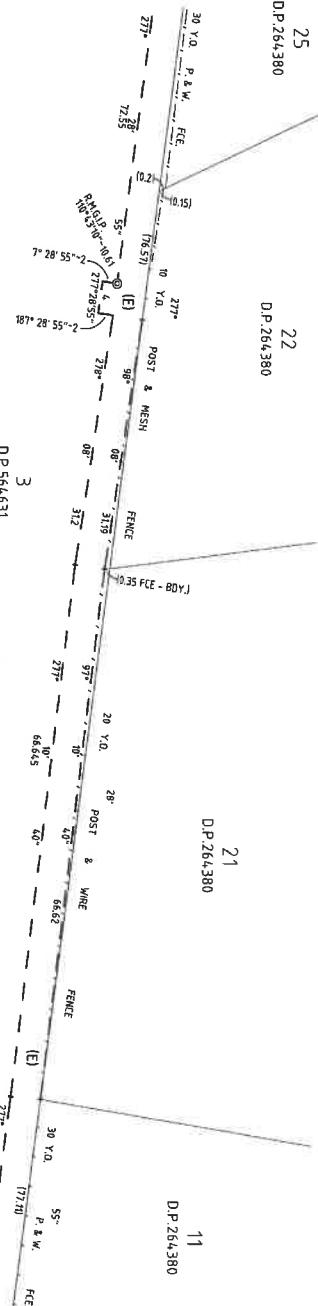
25  
D.P.264380

22  
D.P.264380

21  
D.P.264380

SHORT LINE TABLE	
LINE	BEARING & DISTANCE
4	N 13° 23' 45" E 385
5	S 22° 23' 45" E 63

M.G.A.

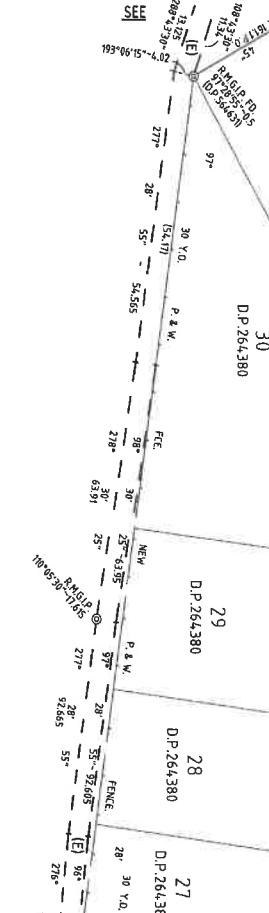


NOT TO SCALE  
**DIAGRAM 4**

2

31  
D.P.264380

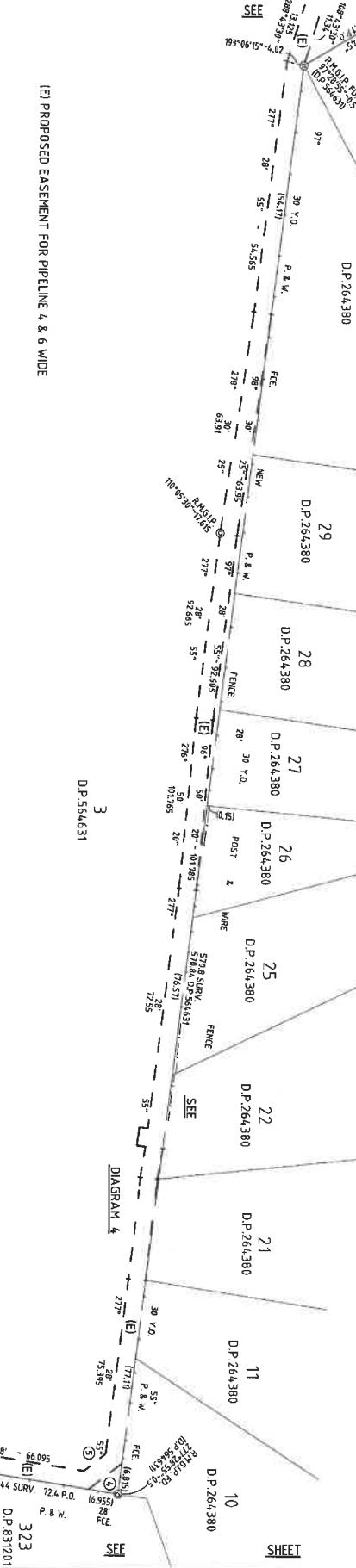
30  
D.P.264380



3  
D.P.564631

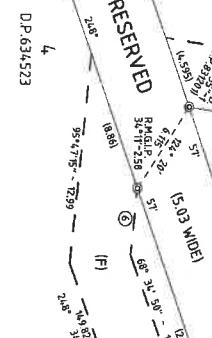
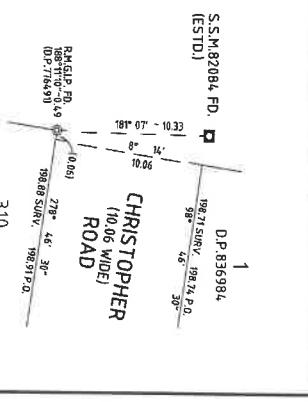
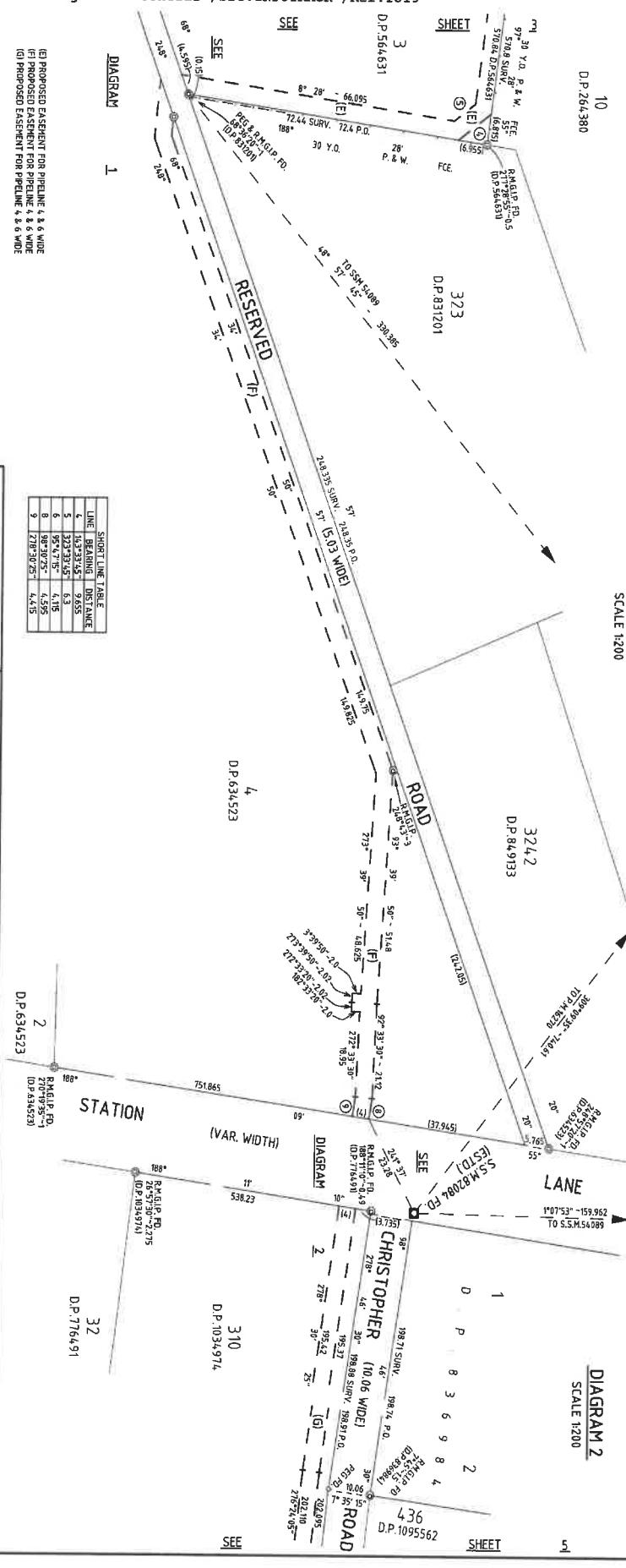
(E) PROPOSED EASEMENT FOR PIPELINE 4 & 6 WIDE

Surveyor: DAVIDIAN TURNER Date of Survey: 13TH DECEMBER 2016 Surveyor's Ref: 2957910-DP-010-J	PLAN OF PROPOSED EASEMENT FOR PIPELINE WITHIN LOTS 10 D.P.126128 LOT 3 D.P.564631, LOT 4 D.P.634623, LOT 310 D.P.103494, LOT 311 D.P.1135560, LOT 11218389 & LOT 32 D.P.1132263	LGA: MAITLAND Locality: LOCHINVAR Subdivision No.: _____ Lengths are in metres. Reduction Ratio: 1:600	Registered 21.7.2017	DP1232943
---	--	---	-------------------------	-----------



WARNING: CREEPING OR FOLDING WILL LEAD TO REJECTION

ePlan Street 4 of 8 sheets

DIAGRAM 1  
SCALE 1:200DIAGRAM 2  
SCALE 1:200

Surveyor:	DAVIDIAN TURNER	PLAN OF PROPOSED EASEMENT FOR PIPELINE WITHIN
Date of Survey:	31st DECEMBER 2016	LOTS 101, D.P. 1246138, LOT 3 D.P. 554631, LOT 4
Surveyors Ref:	235101(DP-001-D)	D.P. 534623, LOT 310 D.P. 1034974, LOT 311 D.P. 1155380,
		LOT 11 1218388 & LOT 32 D.P. 1132263

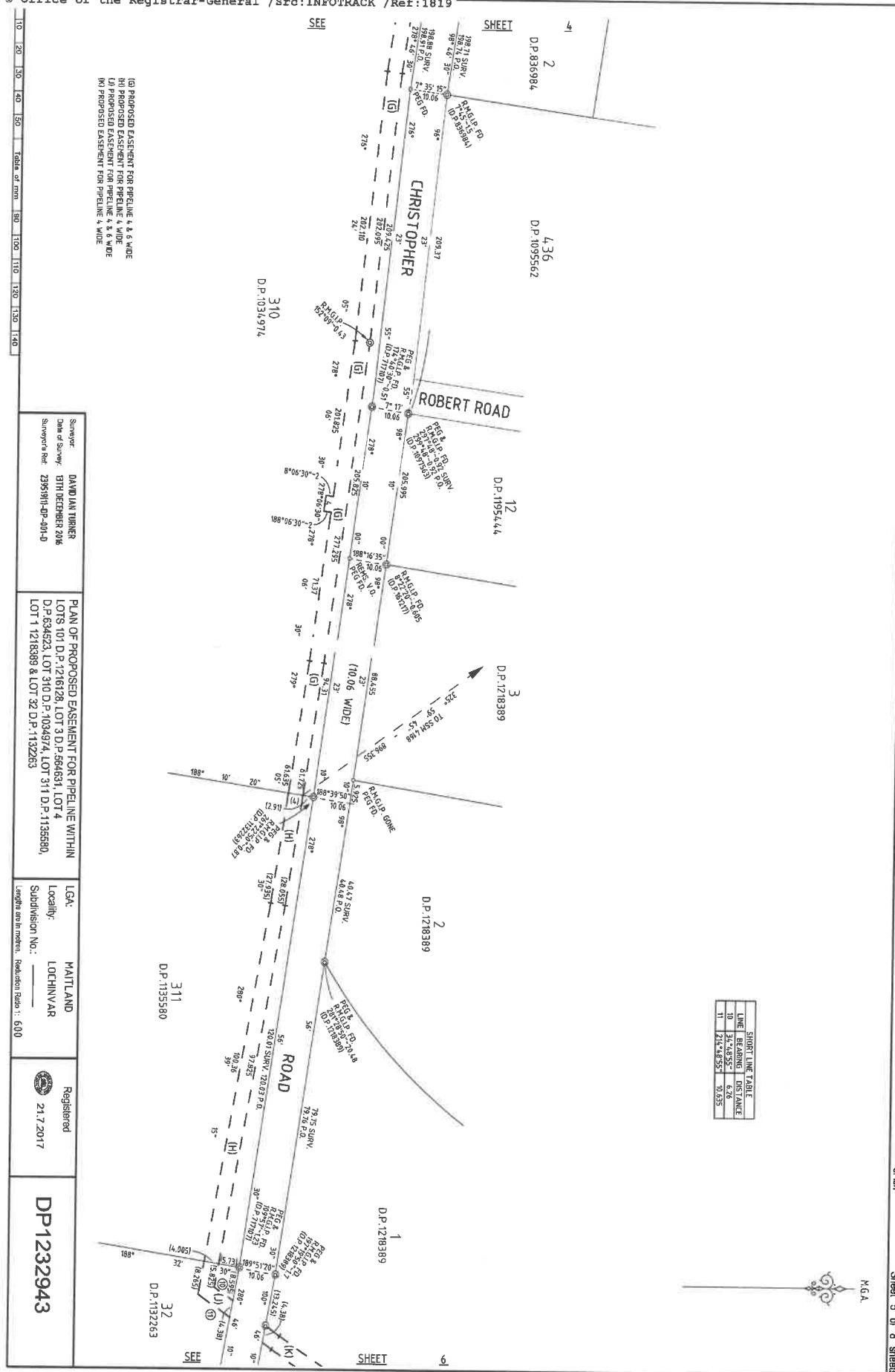
LGA:	MAITLAND	Registered	21/7/2017	DP1232943
Locality:	LOCHINVAR			
Submission No.:				

Lengths are in metres Reduction Ratio: 1:600

MGA

SHELF LINE TABLE	
LINE NUMBER	BEARING DISTANCE
10	32.46522
11	24.46525

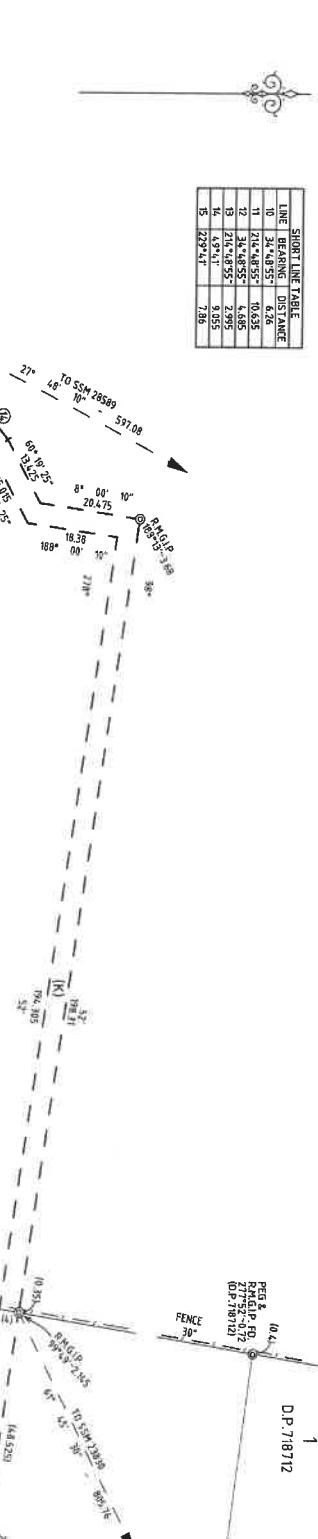
Req:R655548 /Doc:DP 1232943 P /Rev:24-Jul-2017 /NSW LRS /Pgs:ALL /Prt:15-Jul-2019 14:17 /Seq:5 of 10  
 © Office of the Registrar-General /Src:INFOTRACK /Ref:1819



M.G.A.	
SHORT LINE TABLE	
LINE	BEARING
10	34°48'55"
11	214°48'55"
12	34°48'55"
13	214°48'55"
14	49°41'
15	229°47'
	7.85

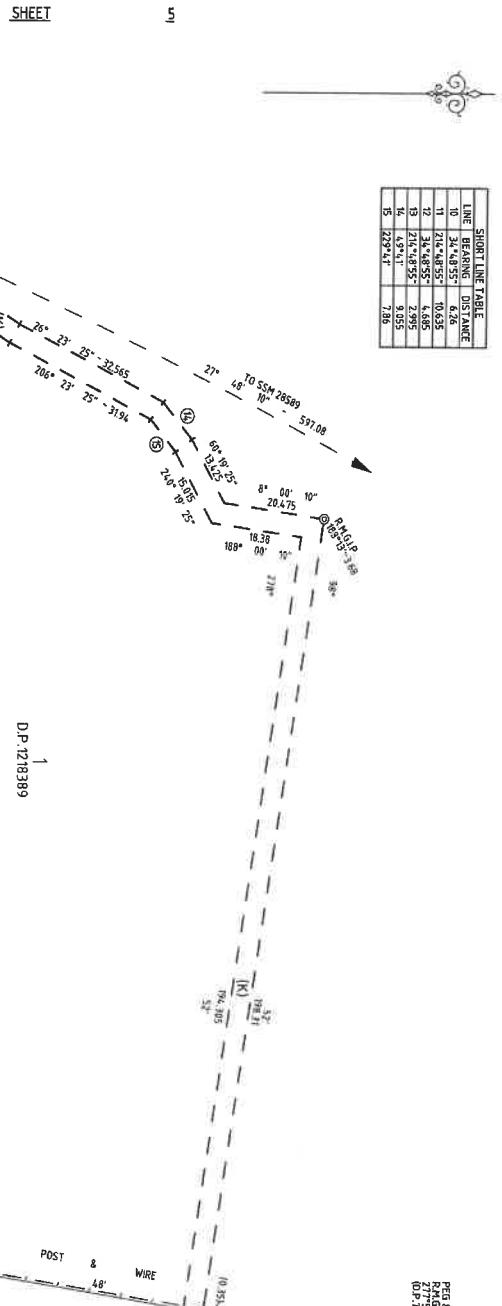
PINGS & RAILING	
RAILING	FD.
277'22" - 0.72	(D.P. 1819/2)

D.P. 718712  
 1

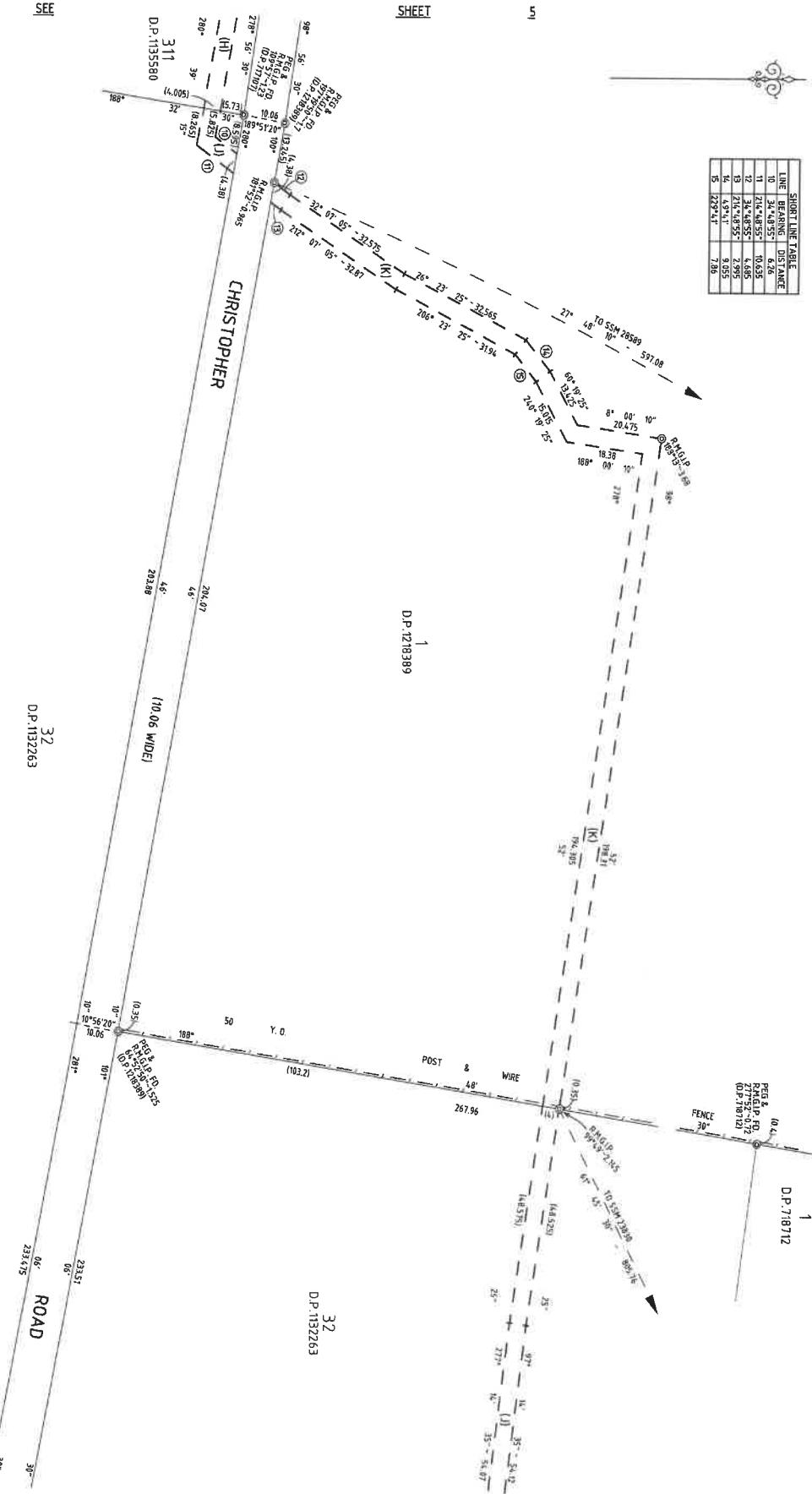


D.P. 1218389  
 1

32  
 D.P. 1132263  
 1



32  
 D.P. 1132263  
 1



SHEET 1

H1 PROPOSED EASEMENT FOR PIPELINE 4 WIDE  
 H1 PROPOSED EASEMENT FOR PIPELINE 4 WIDE  
 K1 PROPOSED EASEMENT FOR PIPELINE 4 WIDE

10 20 30 40 50 70 90 100 110 120 130 140  
 Table of mm. 90 100 110 120 130 140

Surveyor: DAVIDIAN TURNER	PLAN OF PROPOSED EASEMENT FOR PIPELINE WITHIN	LGA: MAITLAND	Registered	
Date of Survey: 13TH DECEMBER 2016	LOTS 101 D.P. 126128, LOT 30 D.P. 564631, LOT 4 D.P. 634623, LOT 310 D.P. 1034974, LOT 311 D.P. 1135680, LOTS 112 D.P. 1124839 & LOT 32 D.P. 1132633	Locality: LOCHINVAR	Subdivision No.: _____	21/7/2017
Surveyor's Ref: Z955191-DP-001-D				

DP1232943

21/7/2017

Lengths are in metres. Reducer Ratio 1:600

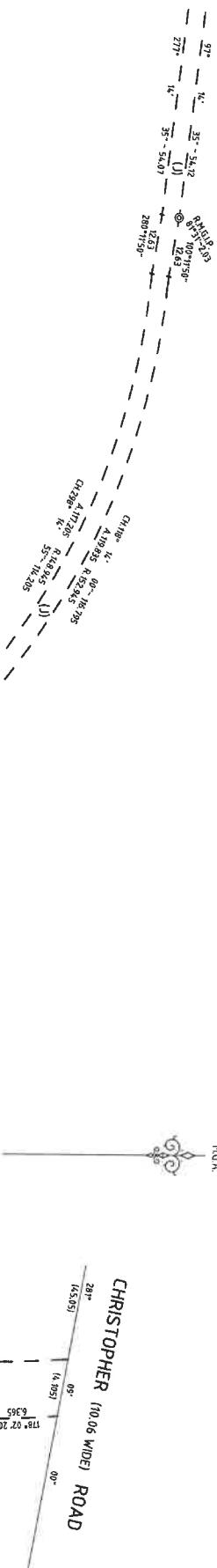
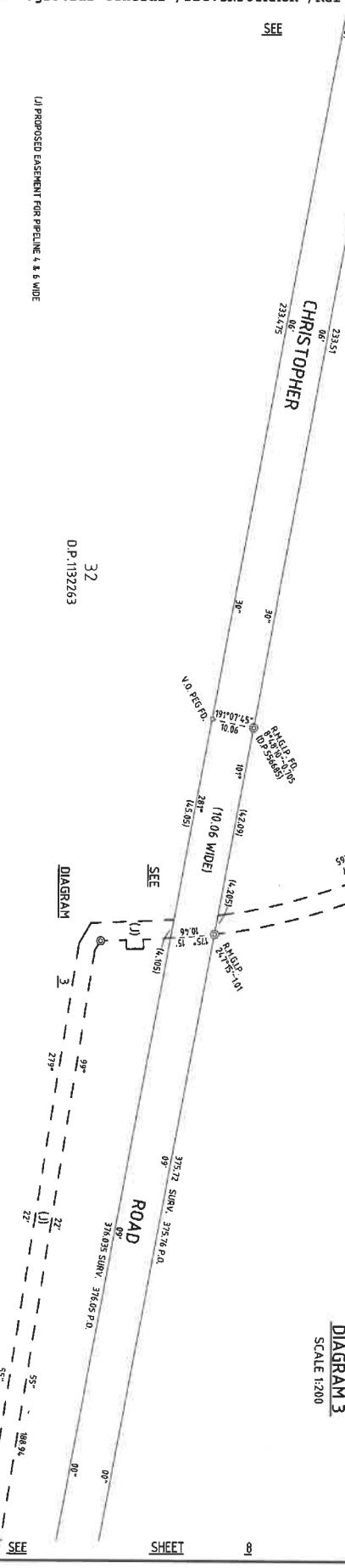


DIAGRAM 3  
 SCALE 1:200



<p>Surveyor: DAVID JAMIE TURNER          Date of Survey: 13TH DECEMBER 2016          Surveyor's Ref: 2955914-PP-001-0</p>	<p>PLAN OF PROPOSED EASEMENT FOR PIPELINE WITHIN          LOTS 101 D.P.1216128, LOT 31 D.P.564631, LOT 4          D.P.634623, LOT 310 D.P.1034974, LOT 311 D.P.1135580,          LOT 11218389 &amp; LOT 32 D.P.1132263</p>	<p>LGA: MAITLAND          Locality: LOCHINVAR          Subdivision No.: _____          Lengths are in metres. Reduction Ratio: 1: 600</p>	<p>Registered          21/7/2017</p>	<p>DP1232943</p>
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10 20 30 40 50 60 70 80 90 100 110 120 130 140

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

ePlan Sheet 8 of 8 sheets

M.G.A.

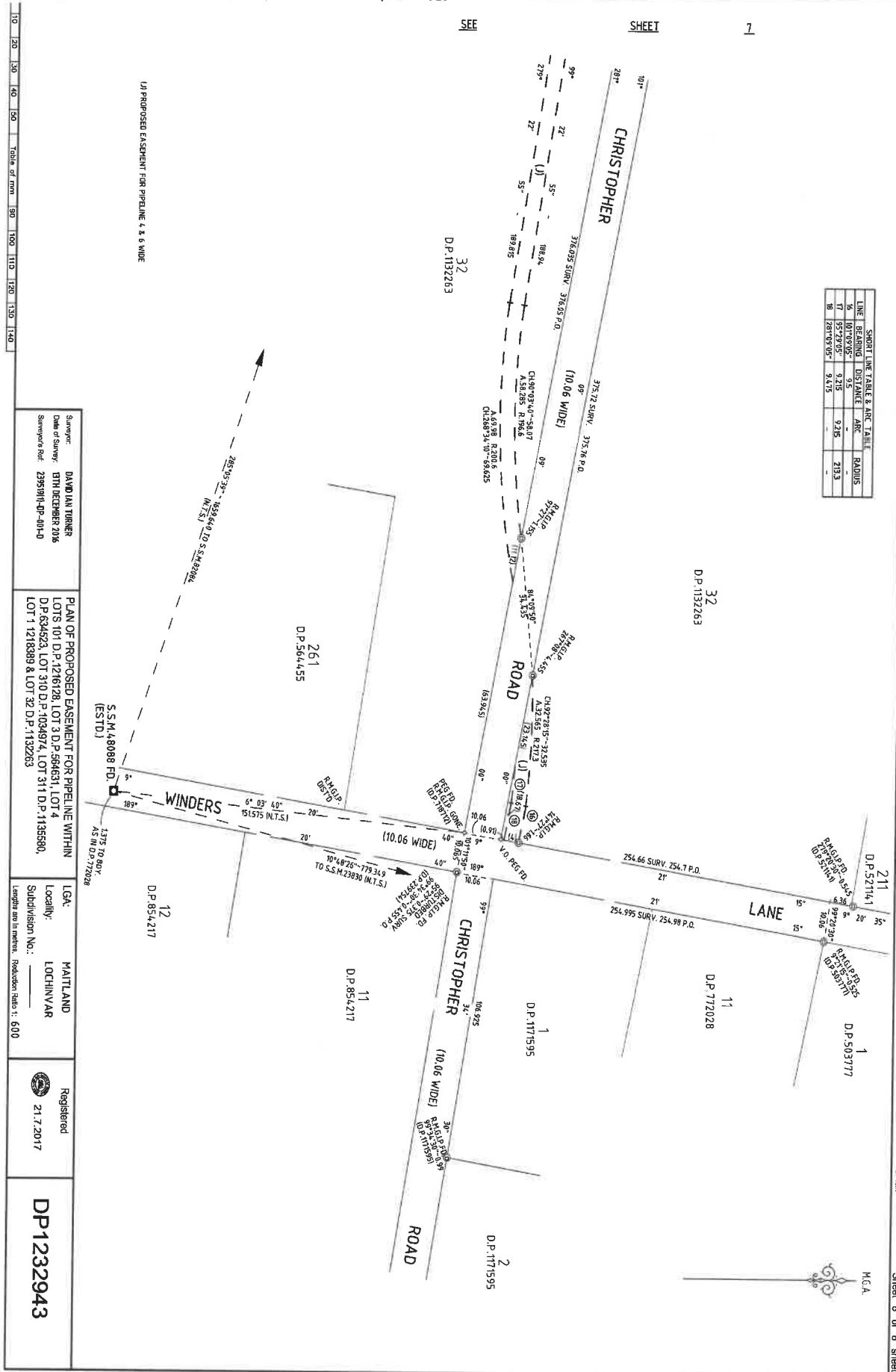
LINE	BEARING	SHORT LINE TABLE & ARC TABLE
		DISTANCE
		ARC
16	101°49'05"	9.5
17	93°57'09"	9.215
18	281°02'05"	9.475

LINE	BEARING	SHORT LINE TABLE & ARC TABLE
		DISTANCE
		ARC
16	101°49'05"	9.5
17	93°57'09"	9.215
18	281°02'05"	9.475

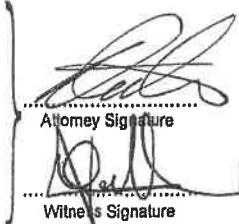
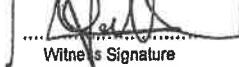
SHEET 1

1

Req:R655548 /Doc:DP 1232943 P /Rev:24-Jul-2017 /NSW LRS /Pgs:ALL /Prt:15-Jul-2019 14:17 /Seq:8 of 10  
 © Office of the Registrar-General /Src:INFOTRACK /Ref:1819



DEPOSITED PLAN ADMINISTRATION SHEET		SHEET 1 OF 2 SHEET(S)																													
<p>Registered:  21.7.2017</p> <p>Title System: TORRENS</p> <p>Purpose: PROPOSED EASEMENT</p> <p>PLAN OF PROPOSED EASEMENT FOR PIPELINE WITHIN LOTS 101 D.P.1216128, LOT 3 D.P.564631, LOT 4 D.P.634523, LOT 310 D.P.1034974, LOT 311 D.P.1135580,LOT 1 D.P.1218389 &amp; LOT 32 D.P.1132263</p>	<p>Office Use Only</p> <p>Office Use Only</p> <p><b>DP1232943</b></p> <p>LGA: MAITLAND Locality: LOCHINVAR Parish: GOSFORTH County: NORTHUMBERLAND</p>																														
<p>Crown Lands NSW/Western Lands Office Approval</p> <p>I ..... (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p>Signature:.....</p> <p>Date:.....</p> <p>File Number:.....</p> <p>Office:.....</p>	<p>Survey Certificate</p> <p>I, DAVID IAN TURNER of ADW JOHNSON PTY LIMITED 7/335 HILLSBOROUGH ROAD, WARNERS BAY, NSW 2282 a surveyor registered under the <i>Surveying and Spatial Information Act</i> 2002, certify that:</p> <p>(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>, is accurate and the survey was completed on ....., 13TH DECEMBER 2016..</p> <p>(b) The part of the land shown in the plan (*being/*excluding .....) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>, is accurate and the survey was completed on ....., the part not surveyed was compiled in accordance with that Regulation.</p> <p>(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>.</p> <p>Signature: ..... Dated: 5/04/2017 Surveyor ID: ..... 2122 Datum Line: ..... 'X' - 'Y' Type: *Urban/Rural The terrain is *Level-Undulating / *Steep-Mountainous.</p> <p>*Strike through if inapplicable. *Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</p>																														
<p>Statements of intention to dedicate public roads, public reserves and drainage reserves, acquire / resume land.</p>	<p>Plans used in the preparation of this survey / compilation</p> <table> <tbody> <tr><td>D.P.239754</td><td>D.P.772028</td><td>D.P.1135580</td></tr> <tr><td>D.P.264380</td><td>D.P.776491</td><td>D.P.1171595</td></tr> <tr><td>D.P.503777</td><td>D.P.831201</td><td>D.P.1195444</td></tr> <tr><td>D.P.521141</td><td>D.P.836984</td><td>D.P.1216128</td></tr> <tr><td>D.P.556685</td><td>D.P.849133</td><td>D.P.1218389</td></tr> <tr><td>D.P.564455</td><td>D.P.854217</td><td></td></tr> <tr><td>D.P.564631</td><td>D.P.1034974</td><td></td></tr> <tr><td>D.P.634523</td><td>D.P.1097563</td><td></td></tr> <tr><td>D.P.717107</td><td>D.P.1132799</td><td></td></tr> <tr><td>D.P.718712</td><td>D.P.1132263</td><td></td></tr> </tbody> </table>	D.P.239754	D.P.772028	D.P.1135580	D.P.264380	D.P.776491	D.P.1171595	D.P.503777	D.P.831201	D.P.1195444	D.P.521141	D.P.836984	D.P.1216128	D.P.556685	D.P.849133	D.P.1218389	D.P.564455	D.P.854217		D.P.564631	D.P.1034974		D.P.634523	D.P.1097563		D.P.717107	D.P.1132799		D.P.718712	D.P.1132263	
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D.P.634523	D.P.1097563																														
D.P.717107	D.P.1132799																														
D.P.718712	D.P.1132263																														
If space insufficient continue on PLAN FORM 6A																															
<p>Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A</p>	<p>Surveyor's Reference: 239519(1)-DP-001-D</p>																														

DEPOSITED PLAN ADMINISTRATION SHEET		SHEET 2 OF 2 SHEET(S)
Registered:  21.7.2017	Office Use Only	Office Use Only
PLAN OF PROPOSED EASEMENT FOR PIPELINE WITHIN LOTS 101 D.P.1216128, LOT 3 D.P.564631, LOT 4 D.P.634523, LOT 310 D.P.1034974, LOT 311 D.P.1135580, LOT 1 D.P.1218389 & LOT 32 D.P.1132263		DP1232943
Subdivision Certificate No: .....	Date of Endorsement: .....	This sheet is for the provision of the following information as required: <ul style="list-style-type: none"><li>• A schedule of lots and addresses - See 60(c) SSI Regulation 2012</li><li>• Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919</li><li>• Signatures and seals- see 195D Conveyancing Act 1919</li><li>• Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.</li></ul>
<p>Signed Sealed and Delivered for and on behalf of Hunter Water Corporation by Peter James Kembrey its duly constituted Attorney pursuant to Power of Attorney registered Book 4695 No. 750</p> <p> Attorney Signature</p> <p> Witness Signature</p> <p>GEORGIA VELLA 36 Honeysuckle Drive, NEWCASTLE WEST</p>		
If space insufficient use additional annexure sheet		
Surveyor's Reference: 239519(1)-DP-001-D		

Form: 11R  
Release: 4.3

**REQUEST**

New South Wales  
Real Property Act 1900



**AN876028L**

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

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

(A) **STAMP DUTY** If applicable. Revenue NSW use only

(B) **TORRENS TITLE**

See Annexure A

(C) **REGISTERED DEALING**

Number Torrens Title

Lot 310 DP 1034974

(D) **LODGED BY**

Document Name, Address or DX, Telephone, and Customer Account Number if any  
Collection

Box LLPN: SAI GLOBAL Property  
28A 124247U DX 885 SYDNEY  
02 9210 0700

Reference:

CODE

R

(E) **APPLICANT**

Minister for Planning for the State of New South Wales

(F) **NATURE OF REQUEST**

Application for registration of a Planning Agreement on title under section 7.6 of the Environmental Planning and Assessment Act 1979

(G) **TEXT OF REQUEST**

That the Planning Agreement, provided in Annexure "B" attached, is registered on the title of the folios for the land referred to in Annexure "A".

**DATE**

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

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

Signature of witness:

Signature of authorised officer:

Name of witness:

Authorised officer's name: See Annexure A

Address of witness:

Authority of officer:

Signing on behalf of:

(I) This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS. The applicant certifies that the eNOS data relevant to this dealing has been submitted and stored under

eNOS ID No.

Full name:

Signature:

\* s/17 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.  
ALL HANDWRITING MUST BE IN BLOCK CAPITALS

Annexure A to

Parties:

Applicant: Minister for Planning for the State of New South Wales  
Registered Proprietor: Lochinvar Ridge Pty Ltd (ACN 622 572 831)

Dated:

SIGNED by BRENDAN NELSON as delegate  
for the Minister for Planning

administering the

Environmental Planning and Assessment Act, 1979



Schedule of Titles:

Lot 310 DP 1034974

I certify that I am an eligible  
witness and that an authorised  
officer of the applicant signed  
this dealing in my presence.  
[See note\* below].

Certified correct for the purposes  
of the Real Properties Act 1900 by  
the authorised officer named below.

Signature of witness: 

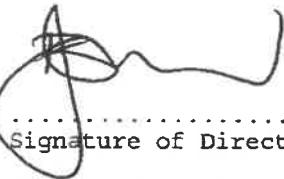
Signature of authorised officer:

Name of witness: ELEANOR ROBERTSON  
Address of witness: 320 Pitt Street  
SYDNEY

Authorised officer's name:  
Authority of officer:  
Signing on behalf of:

  
BRETT WHITWORTH  
DEPUTY SECRETARY  
& DELEGATE  
MINISTER FOR  
PLANNING

Executed by Lochinvar Ridge Pty Ltd  
ACN 622 571 831 accordance with  
Section 127(1) of the Corporations Act 2001:

  
Signature of Director

Bradley Stewart Everett  
Name of Director in full

  
Signature of Director

Hilton Ross Grugeon  
Name of Director in full

# Annexure B

## Planning Agreement

### Environmental Planning and Assessment Act 1979

44 Christopher Road, Lochinvar NSW 2321

Minister for Planning (ABN 38 755 709 681)

Lochinvar Ridge Pty Ltd (ACN 622 571 831)



Voluntary Planning Agreement 2018/9284 – Lochinvar Ridge Pty Ltd

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This deed is dated

12 October 2018



Parties:

Minister

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

Developer

**Lochinvar Ridge Pty Ltd (ACN 622 571 831)**  
of 313 Charlestown Road, Charlestown NSW 2290

**Introduction:**

- A The Landowner owns the Land.
- B The Developer proposes to carry out the Development on the Land.
- C The Developer has made a Development Application to the Consent Authority in respect of the Land.
- D Clause 6.1 of the Maitland Local Environmental Plan 2011 provides that the Consent Authority must not grant Development Consent to the Development unless the Secretary has certified in writing to the Consent Authority that satisfactory arrangements have been made to contribute to the provision of designated State infrastructure referred to in clause 6.1 of the Maitland Local Environmental Plan 2011.
- E The Developer has offered to enter into this deed with the Minister to secure the Development Contribution in order to enable the Secretary to provide the certification required by the Maitland Local Environmental Plan 2011.

**It is agreed:**

**1. Definitions and interpretation**

**1.1 Definitions**

In this deed, unless the context clearly indicates otherwise:

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

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

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

**Bank Guarantee** means an irrevocable and unconditional undertaking:

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

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

**Base CPI** means the CPI number for the quarter ending 31 March 2017.

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

**Consent Authority** has the same meaning as in the Act.

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

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

**CPI Adjustment Date** means 1 July 2018 and each anniversary of 1 July 2018.

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

**Dealing** means in relation to the Land, to sell, transfer, assign, mortgage, charge, dispose, encumber or otherwise deal with the Land in whole or part.

**Development** means the proposed staged subdivision of the Land in approximately 364 residential lots, 2 super lots and 3 drainage lots, generally in accordance with the plan at Schedule 7 and the Development Application DA 2018/0456 lodged with Maitland City Council.

**Development Application** has the same meaning as in the Act.

**Development Consent** has the same meaning as in the Act.

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

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

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

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

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

**Insurance Bond** means an irrevocable and unconditional undertaking:

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

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

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

**Land** means the land described in Schedule 3.

**LEP** means Maitland Local Environmental Plan 2011.

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

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

**Planning Application** means:

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

which seeks approval for the subdivision of the Land.

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

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

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

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

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

**Security** means a Bank Guarantee or an Insurance Bond.

**SIC Amount** means the amount of a monetary contribution calculated in accordance with a Special Infrastructure Contribution that would be payable for a stage of the subdivision authorised by the relevant Development Consent had section 7.24 of the Act not been excluded by this deed.

**Subdivision Certificate** has the same meaning as in the Act.

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

## 1.2 Interpretation

In this deed unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to **a body or authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;

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

## 2. Operation and application of this deed

### 2.1 Operation

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

### 2.2 Planning agreement under the Act

This deed constitutes a planning agreement within the meaning of section 7.4 of the Act and the parties agree on the matters set out in Schedule 1.

### 2.3 Application

This deed applies to:

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

### **3. Application of sections 7.11, 7.12 and 7.24 of the Act**

The application of sections 7.11, 7.12 and 7.24 of the Act are excluded to the extent stated in Schedule 1.

### **4. Development Contribution**

#### **4.1 Developer to provide Development Contribution**

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

#### **4.2 Special Infrastructure Contribution**

(a) This clause applies where:

- (i) the Minister determines a special infrastructure contribution (SIC) under section 7.23 of the Act for a special contributions area that includes any part of the Land (SIC Determination); and
  - (ii) the SIC Determination takes effect on or after the commencement of this deed, but before the Development Contribution has been paid in full.
- (b) If the SIC Amount for a stage of the subdivision authorised by the relevant Development Consent is less than the Contribution Amount that would otherwise be payable under this deed for that stage, then:
- (i) the Developer is required to pay only the SIC Amount; and
  - (ii) that amount is to be treated as the relevant Contribution Amount for the purposes of clause 4.1 and clauses 1(b) and 2(b) of Schedule 4.
- (c) Clause 4.2(b) applies only to a Contribution Amount that has not been paid and is not due and payable at the time the SIC Determination takes effect. To avoid doubt, the Minister is not required to refund or reimburse any part of the Development Contribution paid before that time.
- (d) In this clause 4.2, a reference to the SIC Amount for a stage of the subdivision authorised by the relevant Development Consent is a reference to the amount of the monetary contribution for that stage calculated in accordance with the SIC Determination, being the amount that would have been payable if the application of section 7.24 of the Act had not been excluded by this deed and the Development Consent had been granted before the SIC Determination took effect.

#### **4.3 Acknowledgement**

The Developer acknowledges and agrees that, subject to section 7.3 of the Act, the Minister:

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

## 5. Interest

### 5.1 Interest for late payment

- (a) If the Developer fails to pay a Contribution Amount (as indexed in accordance with Schedule 4) due to the Minister on the due date for payment, the Developer must also pay to the Minister interest at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time.
- (b) Interest is payable on the daily balance of amounts due from the due date for payment of those amounts until all outstanding amounts (including interest on those amounts) have been paid to the Minister.

## 6. Enforcement

### 6.1 Developer to provide Security

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

## 7. Registration

### 7.1 Registration of deed

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

### 7.2 Evidence of registration

- (a) The Developer must provide the Minister with evidence of the lodgement of this deed pursuant to clause 7.1(a)(iv) within 10 Business Days of such lodgement at the NSW Land Registry Services.

- (b) The Developer will provide the Minister with a copy of the relevant folio of the Register for the Land and a copy of the registered dealing containing this deed within 10 Business Days of registration of this deed.

### 7.3 Release and discharge of deed

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

### 7.4 Interest in Land

The Developer represents and warrants that it is:

- (a) the owner of the Land; and
- (b) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(a)(i) to assist, cooperate and to otherwise do all things necessary for the Developer to comply with its obligations under clause 7.

### 7.5 Right to lodge caveat

- (a) Subject to clause 7.5(b) until such time as this deed is registered on the title of the Land in accordance with clause 7.1, the Developer acknowledges that this deed confers on the Minister an interest in the Land and entitles the Minister to lodge and maintain a caveat on the title to the Land to prevent any Dealing in respect of the Land.
- (b) If the Minister lodges a caveat in accordance with clause 7.5(a), then the Minister will do all things reasonably necessary to:
  - (i) ensure that the caveat does not prevent or delay the registration of this deed; and
  - (ii) remove the caveat from the title to the Land promptly, following registration of this deed in accordance with clause 7.1.
- (c) If, after 10 Business Days of receipt of a copy of this deed executed by the Minister, the Developer has failed or has been unable to achieve the registration of this deed in accordance with clause 7.1, the Developer must pay the Minister's reasonable costs and expenses, including legal costs, of exercising the Minister's rights under clause 7.5(a) to lodge and withdraw a caveat(s) (as applicable).

## 8. Dispute Resolution

### 8.1 Not commence

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

### 8.2 Written notice of dispute

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

### 8.3 Attempt to resolve

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

#### **8.4 Mediation**

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

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; or
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

#### **8.5 Court proceedings**

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 then any party which has complied with the provisions of this clause 8 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

#### **8.6 Not use information**

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

#### **8.7 No prejudice**

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

### **9. GST**

#### **9.1 Definitions**

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

#### **9.2 Intention of the parties**

The parties intend that:

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

#### **9.3 Reimbursement**

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

#### **9.4 Consideration GST exclusive**

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

#### **9.5 Additional Amounts for GST**

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

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

#### **9.6 Non monetary consideration**

Clause 9.5 applies to non-monetary consideration.

#### **9.7 Assumptions**

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

#### **9.8 No merger**

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

### **10. Assignment and transfer**

#### **10.1 Right to assign or novate**

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

## 10.2 Right to transfer Land

- (a) The Developer must not sell or transfer to another person (**Transferee**) the whole or part of any part of the Land:
  - (i) on which this deed remains registered under section 7.6 of the Act; or
  - (ii) for which the Development Contribution required under this deed remains outstanding.
- (b) Notwithstanding clause 10.2(a) the Developer may sell or transfer the whole or any part of the Land to a Transferee if prior to the proposed sale or transfer the Developer:
  - (i) satisfies the Minister, acting reasonably, that the proposed Transferee has sufficient assets, resources and expertise required to perform any of the remaining obligations of the Developer under this deed or satisfies the Minister, acting reasonably, that the Developer will continue to be bound by the terms of this deed after the transfer has been effected;
  - (ii) procures the execution of an agreement by the Transferee with the Minister on terms satisfactory to the Minister, acting reasonably, under which the Transferee agrees to comply with the terms and conditions of this deed as though the Transferee were the Developer; and
  - (iii) satisfies the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (c) The Developer must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.2.

## 10.3 Replacement Security

Provided that:

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

the Minister will promptly return the Security to the Developer.

## 11. Capacity

### 11.1 General warranties

Each party warrants to each other party that:

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

### 11.2 Power of attorney

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

## 12. Reporting requirement

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

## 13. General Provisions

### 13.1 Entire deed

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

### 13.2 Variation

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

### 13.3 Waiver

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

### 13.4 Further assurances

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

### 13.5 Time for doing acts

- (a) If:
  - (i) the time for doing any act or thing required to be done; or
  - (ii) a notice period specified in this deed,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

#### **13.6 Governing law and jurisdiction**

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

#### **13.7 Severance**

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

#### **13.8 Preservation of existing rights**

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

#### **13.9 No merger**

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

#### **13.10 Counterparts**

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

#### **13.11 Relationship of parties**

Unless otherwise stated:

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

#### **13.12 Good faith**

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

#### **13.13 No fetter**

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

### 13.14 Explanatory note

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

### 13.15 Expenses and stamp duty

- (a) The Developer must pay its own and the Minister's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer must pay all Taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- (d) The Developer must provide the Minister with bank cheques, or an alternative method of payment if agreed with the Minister, in respect of the Minister's costs pursuant to clauses 13.15(a) and (b):
  - (i) where the Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
  - (ii) where the Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Minister for payment.

### 13.16 Notices

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

## Schedule 1

**Table 1 - Requirements under section 7.4 of the Act (clause 2.2)**

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

Requirement under the Act	This deed
<b>Planning instrument and/or development application – (section 7.4(1))</b>	
<b>The Developer has:</b>	
(a) sought a change to an environmental planning instrument.	(a) No
(b) made, or proposes to make, a Development Application.	(b) Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	(c) No
<b>Description of land to which this deed applies – (section 7.4(3)(a))</b>	See Schedule 3
<b>Description of development to which this deed applies – (section 7.4 (3)(b))</b>	See definition of Development in clause 1.1
<b>Description of change to the environmental planning instrument to which this deed applies – (section 7.4 (3)(b))</b>	N/A
<b>The scope, timing and manner of delivery of contribution required by this deed – (section 7.4 (3)(c))</b>	See Schedule 4
<b>Applicability of sections 7.11 and 7.12 of the Act – (section 7.4 (3)(d))</b>	The application of sections 7.11 and 7.12 of the Act is not excluded in respect of the Development.
<b>Applicability of section 7.24 of the Act – (section 7.4 (3)(d))</b>	The application of section 7.24 of the Act is excluded in respect of the Development.
<b>Consideration of benefits under this deed if section 7.11 applies – (section 7.4 (3)(e))</b>	No
<b>Mechanism for Dispute Resolution – (section 7.4(3)(f))</b>	See clause 8
<b>Enforcement of this deed – (section 7.4(3)(g))</b>	See clause 6
<b>No obligation to grant consent or exercise functions – (section 7.4(10))</b>	See clause 13.13

**Table 2 – Other matters**

<b>Requirement under the Act</b>	<b>This deed</b>
<b>Registration of the Planning Agreement – (section 7.6 of the Act)</b>	Yes (see clause 7)
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (clause 25E(2)(g) of the Regulation)</b>	No
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (clause 25E(2)(g) of the Regulation)</b>	No
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (clause 25E(2)(g) of the Regulation)</b>	Yes (see clause 3 of Schedule 4)

## Schedule 2

### Address for Service (clause 1.1)

#### Minister

**Contact:** The Secretary  
**Address:** Department of Planning and Environment  
320 Pitt Street  
SYDNEY NSW 2000  
**Email:** [planningagreements@planning.nsw.gov.au](mailto:planningagreements@planning.nsw.gov.au)

#### Developer

**Contact:** Brad Everett  
**Address:** 1 Hartley Driver, Thornton NSW 2322  
**Email:** [BradE@hunterland.com.au](mailto:BradE@hunterland.com.au)

### Schedule 3

#### Land (clause 1.1)

##### 1. Lots proposed for development

Lot	Deposited Plan	Folio Identifier
310	1034974	310/DP1034974

## Schedule 4

### Development Contribution (clause 4)

#### 1. Development Contribution

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

Development Contribution	Value	Timing
Contribution Amount - Monetary contribution towards designated State public infrastructure.	\$82,103.00 per hectare of Net Developable Area for any part of the Land to which a Subdivision Certificate application relates.	Pursuant to clause 3 of this Schedule 4.

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

#### 2. Calculation of the value of a Contribution Amount

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

$$X = N \times \$82,103.00$$

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

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

#### 3. Payment of Contribution Amounts

- (a) The Developer must pay to the Minister or the Minister's nominee each Contribution Amount prior to the issue of the relevant Subdivision Certificate.
- (b) The Developer must provide the Minister with not less than 10 Business Days' written notice of its intention to lodge an application for the relevant Subdivision Certificate.
- (c) The parties agree that the requirement to make a payment under this clause is a restriction on the issue of the relevant Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.

## Schedule 5

### Security terms (clause 6)

#### 1. Developer to provide Security

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

#### 2. Security

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

#### 3. Claims under Bank Guarantees

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

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

#### 4. Release of Security

If:

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

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

## Schedule 6

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

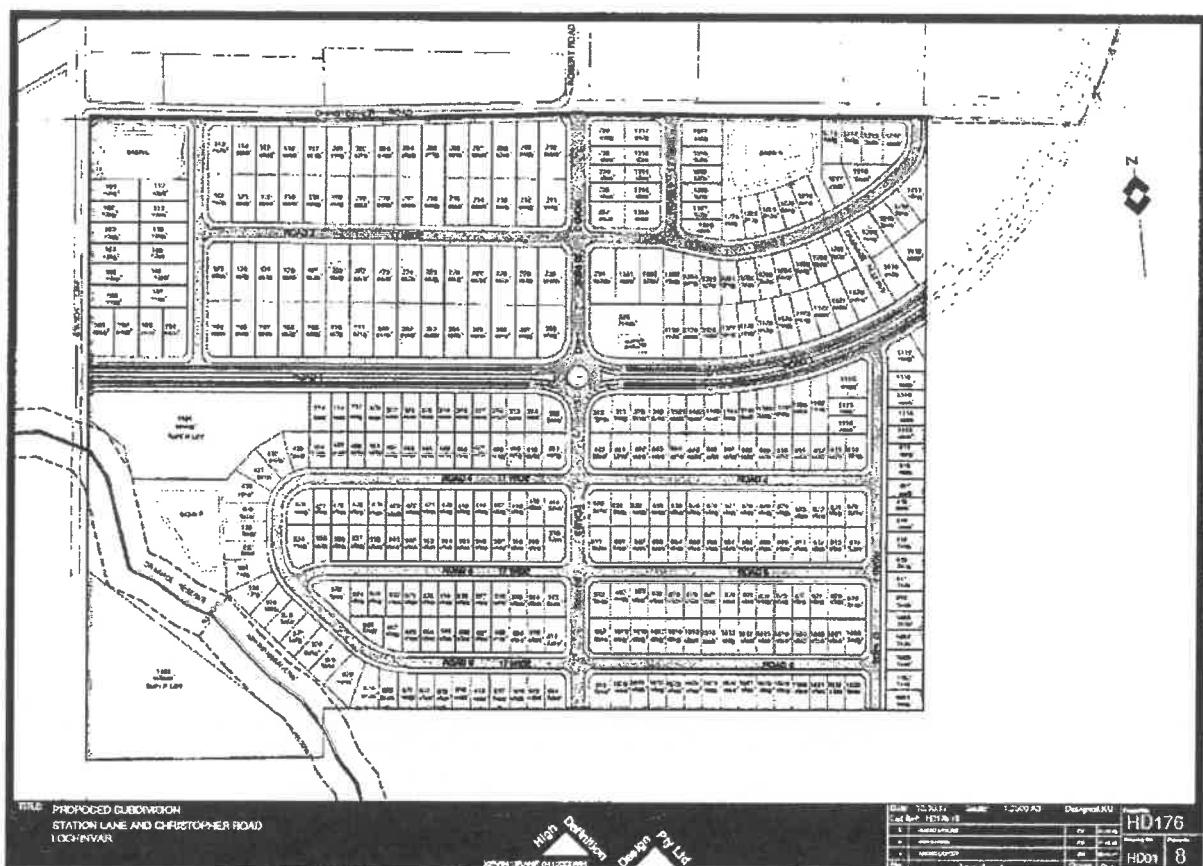
1. The net developable area of a part of the Land (*the net developable area for the proposed subdivision*) is the area of land, in hectares, shown on the proposed plan of subdivision (that is, the area to which the relevant application for a subdivision certificate for that part of the Land relates), subject to the other provisions of this Schedule 6.
2. The net developable area does not include the area of any land that the proposed subdivision reserves, dedicates or otherwise sets aside as, or for the purpose of, any of the following:
  - (a) school;
  - (a) TAFE establishment;
  - (b) emergency services facility;
  - (c) health services facility owned or operated by a public authority;
  - (d) golf course;
  - (e) passenger transport facility;
  - (f) place of public worship;
  - (g) public open space, including a public reserve (within the meaning of the *Local Government Act 1993*);
  - (h) drainage reserve (within the meaning of the *Local Government Act 1993*);
  - (i) public utility undertaking;
  - (j) bus depot;
  - (k) recreation area;
  - (l) cemetery (within the meaning of the *Cemeteries and Crematoria Act 2013*);
  - (m) public roads; and
  - (n) public amenities or public services, in connection with which development contributions have been imposed under section 7.11 or section 7.12 of the Act or may be imposed in accordance with a contributions plan approved under section 7.18 of the Act.
3. The following areas of land are not to be included in the calculation of the net developable area for the proposed subdivision:
  - (a) any area of land that is at or below the level of a 1:100 ARI (average recurrent interval) flood event, if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of it being at or below that level;

- (b) any area of land that is identified as public open space in a development control plan or in a contributions plan approved under section 7.18 of the Act;
  - (c) any area of land that is within Zone E2 Environmental Conservation;
  - (d) any area of land within the curtilage of a building listed on the State Heritage Register;
  - (e) any area of land this is within an asset protection zone:
    - (i) that is specified in a bush fire safety authority issued under the *Rural Fires Act 1997*; or
    - (ii) that is required to be established by the development consent relating to the subdivision,
- if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of it being within that zone;
- (f) an area of land that is subject to an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land or as confirmed in writing by the public utility undertaking, if the Secretary is satisfied the that the area is unsuitable for developing for the purposes of the subdivision by virtue of the easement; and
  - (g) any area of land that is within a public transport corridor (other than a road corridor) as shown on a Land Zoning Map for the purposes of an environmental planning instrument or a development control plan made under the Act, if the Secretary is satisfied that the area is unsuitable for development for the purposes of the subdivision by virtue of it being within the public transport corridor.
4. The net developable area does not include the area of any lot in the proposed plan of subdivision that may be further subdivided (other than under a strata scheme) in accordance with the development consent relating to the subdivision.
  5. The net developable area does not include the area of any lot in the proposed plan of subdivision that the Secretary has determined (in writing), at the Secretary's discretion and having regard to the relevant planning controls, will be further subdivided (other than under a strata scheme) in accordance with a future development consent for the purpose of the orderly development of the land for urban purposes in the future.
  6. If a proposed lot contains an existing lawful habitable dwelling (being a dwelling that lawfully existed on the proposed lot at the date this deed commences) and:
    - (a) is no more than 0.1 hectare, the net developable area does not include the area of the lot, or
    - (b) is more than 0.1 hectare in area, the net developable area is reduced by 0.1 hectare, for the purpose of calculating the net developable area for the proposed subdivision.
  7. If a proposed lot is wholly within Zone E3 Environmental Management, Zone E4 Environmental Living or Zone R5 Large Lot Residential and is more than 0.1 hectare, that lot is taken to be 0.1 hectare for the purpose of calculating the net developable area for the proposed subdivision.
  8. The parties agree that the Secretary may make any determination required to be made for the purpose of calculating the net developable area for the proposed subdivision in accordance with this clause and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements made by a registered surveyor of the land concerned.

9. In this Schedule 6, the following words or expressions have the same meanings as they have in the Standard Instrument (that is, the standard instrument for a principal local environmental plan prescribed by the Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument)):
  - (a) emergency services facility;
  - (b) health services facility;
  - (c) passenger transport facility;
  - (d) place of public worship;
  - (e) public utility undertaking;
  - (f) recreation area; and
  - (g) school.
10. In this Schedule, a reference to:
  - (h) a land use zone is a reference to a land use zone specified in the Standard Instrument and to a land use zone that is equivalent to any such land use zone; and
  - (i) curtilage of a building listed on the State Heritage Register is a reference to the curtilage of that building, or the site of that building, as specified or described in the listing of the building on the State Heritage Register kept under Part 3A of the *Heritage Act 1977*; and
  - (j) a "strata scheme" means a reference to a strata scheme as that term is defined in the *Strata Scheme (Freehold Development) Act 1973* or a leasehold strata scheme as that term is defined in the *Strata Scheme (Leasehold Development) Act 1986*.

**Schedule 7: proposed plan of subdivision**

(INDICATIVE ONLY – this plan does not describe the land subject to this agreement)



*Brett Whittaker*

*RJ*

Execution page

Executed as a deed

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

.....  
Signature of witness

ELEANOR ROBERTION

Name of witness in full

320 PITT ST, SYDNEY

Address of witness

SIGNED by ~~BRENDAN NELSON~~ as delegate  
for the Minister for Planning  
administering the

Environmental Planning and Assessment Act, 1979

Brett Whitworth

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

BRETT WHITWORTH

Name of Minister for Planning or delegate

Executed by Lochinvar Ridge Pty Ltd (ACN 622 571 831) accordance with section 127(1) of the Corporations Act 2001:

.....  
Signature of Sole Director and Secretary

HILTON ROSS CRNGEDN

Name of Sole Director and Secretary in full

B  
.....  
Signature of Director

BRADLEY STEWART EVERETT

Name of Director

FILM WITH

AN876028

## AUTHORITY

From: Richard Hvirf  
c/- Hills Solicitors  
447 High Street,  
MAITLAND NSW 2320

To: Registrar General  
Land Registry Services  
Queens Square  
SYDNEY NSW 2000

RE: AUTHORITY TO CONSENT TO REGISTRATION OF VOLUNTARY PLANNING  
AGREEMENT  
PROPERTY: 44 CHRISTOPHER ROAD, LOCHINVAR  
REGISTERED PROPRIETOR: LOCHINVAR RIDGE PTY LTD

I, Richard Karl Hvirf, the Mortgagor under registered Mortgage AN52056 hereby consent to the registration of a Voluntary Planning Agreement being entered into by Lochinvar Ridge Pty Ltd with the Department of Planning and Environment affecting the property, 44 Christopher Road, Lochinvar (Certificate of Title Folio Identifier 310/1034974).

DATED: 14/11/18

R.K.Hvirf  
(Richard Karl Hvirf)



**Certificate No.: PC/2019/1842**

**Certificate Date:** 15/07/2019

**Fee Paid:** \$53.00

**Receipt No.:** 495853

**Your Reference:** 1819

**SECTION 10.7 PLANNING CERTIFICATE**

**Environmental Planning and Assessment Act, 1979 as amended**

<b>APPLICANT:</b>	Infotrack  ecertificates@infotrack.com.au
<b>PROPERTY DESCRIPTION:</b>	44 Christopher Road LOCHINVAR NSW 2321
<b>PARCEL NUMBER:</b>	39145
<b>LEGAL DESCRIPTION:</b>	Lot 310 DP 1034974

**IMPORTANT: Please read this Certificate carefully.**

This Certificate contains important information about the land described above.

Please check for any item, which could be inconsistent with the proposed use or development of the land. If there is anything you do not understand, please contact Council by phoning (02) 4934 9700, or personally at Council's Administration Building at 285-287 High Street, Maitland.

The information provided in this Certificate relates only to the land described above. If you require information about adjoining or nearby land, or about the Council's development policies or codes for the general area, contact Council's Planning & Environment Department.

All information provided is correct as at the date of issue of this Certificate, however it is possible for changes to occur at any time after the issue of this Certificate. We recommend that you only rely upon a very recent Certificate.

The following responses are based on the Council's records and/or information from sources outside the Council. The responses are provided with all due care and in good faith, however the Council cannot accept responsibility for any omission or inaccuracy arising from information outside the control of the Council.

Furthermore, while this Certificate indicates the general effect of the zoning of the abovementioned land, it is suggested that the applicable planning instruments be further investigated to determine any additional requirements.

**Copies of Maitland City Council's Local Environmental Planning Instrument, Development Control Plans and Policies are available from Council's [website](#).**

## **PART 1: MATTERS PROVIDED PURSUANT TO SECTION 10.7 (2)**

### **1. Local Environmental Plan (LEP)**

Maitland LEP 2011, published 16 December 2011, applies to the land.

#### **Exhibited draft Local Environmental Plans**

No draft local Environmental Plans that have been on public exhibition under the Act are applicable to the land.

#### **Development Control Plan prepared by Council**

Maitland Development Control Plan 2011 applies to the land.

#### **Development Control Plan prepared by the Director General**

The Council has not been notified of any Development Control Plan applying to the land that has been prepared by the Director-General under section 51A of the Act.

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

The Minister for Planning has notified that the following State Environmental Planning Policies (SEPPs) shall be specified on Certificates under Section 10.7 of the Environmental Planning and Assessment Act, 1979.

The land is affected by the following State Environmental Planning Policies:

- SEPP21 Caravan Parks
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (State and Regional Development) 2011
- SEPP33 Hazardous and Offensive Development
- SEPP36 Manufactured Home Estates
- SEPP44 Koala Habitat Protection
- SEPP50 Canal Estate Development
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP55 Remediation of Land
- SEPP Affordable Rental Housing 2009
- SEPP Building Sustainability Index: BASIX 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP64 Advertising and Signage
- SEPP Primary Production and Rural Development
- SEPP65 Design Quality of Residential Apartment Development
- SEPP70 Affordable Housing (Revised Schemes)
- SEPP Vegetation in Non Rural Areas 2017

- SEPP (Educational Establishments and Child Care Facilities) 2017
- 

### **Draft State Environmental Planning Policies**

The following draft State Environmental Planning Policy(s) applying to the land is, or has been, the subject of community consultation or on public exhibition under the Act:

#### ***Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016***

The draft policy amends the existing SEPP by including new provisions for health services facilities, correctional centres, emergency and police services, public administration buildings, and council services on operational lands. The draft policy coincides with the development of the new State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

#### ***Review of State Environmental Planning Policy 44 - Koala Habitat Protection***

The proposed amendment to this SEPP will update the controls to better protect koala habitat. The update will bring the SEPP into line with the current planning system and support councils to prepare comprehensive plans of management. The amendments will also improve the application of the SEPP by recognising the extent of tree species important to koalas.

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

Maitland LEP 2011, published 16 December 2011, identifies the zone applying to the land as:

### **R1 General Residential**

The following development information gives the objectives of the zone, the description of the zone and identifies development allowed or prohibited in each zone. Development consent where required, must be obtained from the Council.

#### **R1 General Residential**

##### **a) Purpose/Objective**

- To provide for the housing needs of the community
- To provide for a variety of housing types and densities
- To enable other land uses that provide facilities or services to meet the day to day needs of residents

##### **b) Permitted with Consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Home-based child care; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing;

Tank-based aquaculture; Any other development not specified in item 2 or 4

**c) Permitted without Consent**

Home occupations

**d) Prohibited**

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies.

**e) Land dimensions to permit the erection of a dwelling house on the land**

For the land zoned R1 General Residential the Maitland LEP 2011 does not contain a development standard specifying the land dimensions required to permit the erection of a dwelling house on the land.

**f) Critical Habitat**

No Local Environmental Plan or draft Local Environmental Plan identifies the land as including or comprising critical habitat.

**g) Conservation Area**

The land IS NOT in a Heritage Conservation Area.

**h) Item of Environmental Heritage**

The land does NOT contain an item of Environmental Heritage.

**3. Complying Development**

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

Complying development under the **Low Rise Medium Density Housing Code** may be carried out on the land. Complying development under the **Greenfield Housing Code** may be carried out on the land, but only if the land is identified on the *Greenfield Housing Code Area Map* issued by the NSW Department of Planning and Environment.

Complying development under the **Rural Housing Code** may not be carried out

on the land as it is not within an applicable zone.

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

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

Complying development under the **Commercial and Industrial Alterations Code** may be carried out on the land.

Complying development under the **Commercial and Industrial (New Buildings and Additions) Code** may not be carried out on the land as it is not within an applicable zone.

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

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

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

Complying development under the **Container Recycling Facilities Code** may not be carried out on the land.

**Note:** Despite the above provisions, if only part of a lot is subject to an exclusion or exemption under Clause 1.17A or Clause 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013*, complying development may be carried out on that part of the lot that is not affected by the exclusion or exemption.

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

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 (within the meaning of section 553B of that Act).

#### **5. Coal Mine Subsidence Compensation Act 2017**

The land has NOT been proclaimed to be within a Mine Subsidence District under the meaning of section 20 of the Coal Mine Subsidence Compensation Act 2017.

#### **6. Road widening and road realignment**

- a) The land is NOT affected by road widening under Division 2 of Part 3 of the Roads Act 1993.
- b) The land is NOT affected by any environmental planning instrument
- c) The land is NOT affected by any road-widening or realignment under any resolution of the Council

The information above relates to Council's road proposals only. Other authorities, including Roads and Maritime Services, may have proposals, which have not been set out.

#### **7. Council and other public authority policies on hazard risk restrictions**

All land within the Maitland Local Government Area has the potential to contain acid sulfate soils. Clause 7.1 of the Maitland Local Environmental Plan 2011 generally applies. Development consent is required where works described in the Table to this clause are proposed on land shown on the Maitland LEP 2011 Acid Sulfate Soils Map as being of the class specified for those works.

The Council has adopted a Contaminated Lands Policy to provide a framework to appropriately manage land contamination risk through the land use planning process. This Policy seeks to ensure that changes in landuse will not increase the risk to human health or the environment. The Policy applies to all land in the Maitland Local Government Area.

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

Development on this land or part of this land for the purposes of dwelling houses, attached dwellings, 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 contained within clause 7.3 of the Maitland LEP 2011 and s.B3 of the Maitland DCP 2011.

Development on this land or part of this land for any other purpose is NOT subject to flood related development controls contained within clause 7.3 of the Maitland LEP 2011 and s.B3 of the Maitland DCP 2011.

Information given in relation to flooding is based upon Council's adopted 1:100 ARI (Average Recurrent Interval) flood event.

The Maitland LEP 2011 identifies the flood planning level (FPL) as the level of a 1:100 ARI flood event plus 0.5m freeboard.

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

No environmental planning instrument, deemed environmental planning instrument or draft environmental planning instrument applying to the land provides for the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

#### **9. Contribution Plans**

The following contribution plan(s) apply to the land:

- Maitland S94A Levy Contributions Plan 2006
- Lochinvar S94 Contribution Plan 2013
- Maitland City Wide Section 94 Contributions Plan 2016
- Maitland S94 Contributions Plan (City Wide) 2006

Contributions Plans may be viewed on Council's website or inspected and purchased at Council's Customer Service Centre.

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

The land is not biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

#### **10. Biodiversity Stewardship Sites**

The Council is not aware if the land is a biodiversity stewardship site under a

biodiversity stewardship agreement under part 5 of the *Biodiversity Conservation Act 2016*.

#### **10A. Native Vegetation clearing set asides**

The Council is not aware if the land contains a set aside area under 60ZC of the *Local Land Services Act 2013*.

#### **11. Bushfire Prone Land**

The land is NOT identified as being bushfire prone land.

#### **12. Property vegetation plans**

The Council has not received any notification from Hunter Local Land Services that this land is affected by a property vegetation plan under Part 4 of the Native Vegetation Act 2003 (and that continues in force).

#### **13. Order under Trees (Disputes between Neighbours) Act 2006**

Council has NOT received notification from the Land and Environment Court of NSW that the land is affected by an Order under Trees – (Disputes Between Neighbours) Act 2006.

#### **14. Directions under Part 3A**

There is NO direction by the Minister 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 (other than a project of a class prescribed by the regulations) of the Act does not have effect.

#### **15. Site Compatibility Certificate and Conditions for Seniors Housing**

##### **a) Site Compatibility Certificate**

Council is unaware of whether a current Site Compatibility Certificate issued under Clause 25 of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 has been issued for the land.

##### **b) Conditions of Development Consent since 11 October 2007**

No development consent has been granted for the development permitted under State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 after 11 October 2007.

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

Council is unaware of whether a valid Site Compatibility Certificate has been issued under clause 19 of State Environmental Planning Policy (Infrastructure) 2007 for the land.

#### **17. Site compatibility certificates and conditions for affordable rental housing**

Council is unaware if a Site Compatibility Certificate (Affordable Rental Housing) has been issued in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009.

#### **18. Paper subdivision information**

There is no development plan that applies to the:

- 1) Land or that is proposed to be subject to a consent ballot
- 2) There is no subdivision order that applies to the land.

#### **19. Site verification certificates**

Council is not aware of any current site verification certificate in respect of the land.

#### **20. Loose-fill asbestos insulation**

There are no premises on the subject land listed on the register.

#### **21. Affected building notices and building product rectification orders**

The Council is NOT aware of any affected building notice which is in force in respect of the land.

The Council is NOT aware of any building product rectification order which is in force in respect of the land and that has not been fully complied with.

The Council is NOT aware of any notice of intention to make a building product rectification order being given in respect of the land and that is outstanding.

**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.**

#### **Contaminated Land**

- a) The land to which this certificate relates is NOT significantly contaminated land within the meaning of the Contaminated Land Management Act 1997.
  - b) The land to which this certificate relates is NOT subject to a management order within the meaning of the Contaminated Land Management Act 1997.
  - c) The land to which this certificate relates is NOT the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997.
  - d) The land to which this certificate relates is NOT the subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997.
  - e) Council has NOT been provided with a site audit statement, within the meaning of the Contaminated Land Management Act 1997, for the land to which this Certificate relates.
- 

**David Evans  
General Manager**

# HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

## SERVICE LOCATION PLAN - WATER ONLY

Enquiries: 1300 657 657



APPLICATION NUMBER: 0555569374

APPLICANT NAME: InfoTrack

RATEABLE PREMISE NO.: 5374328283

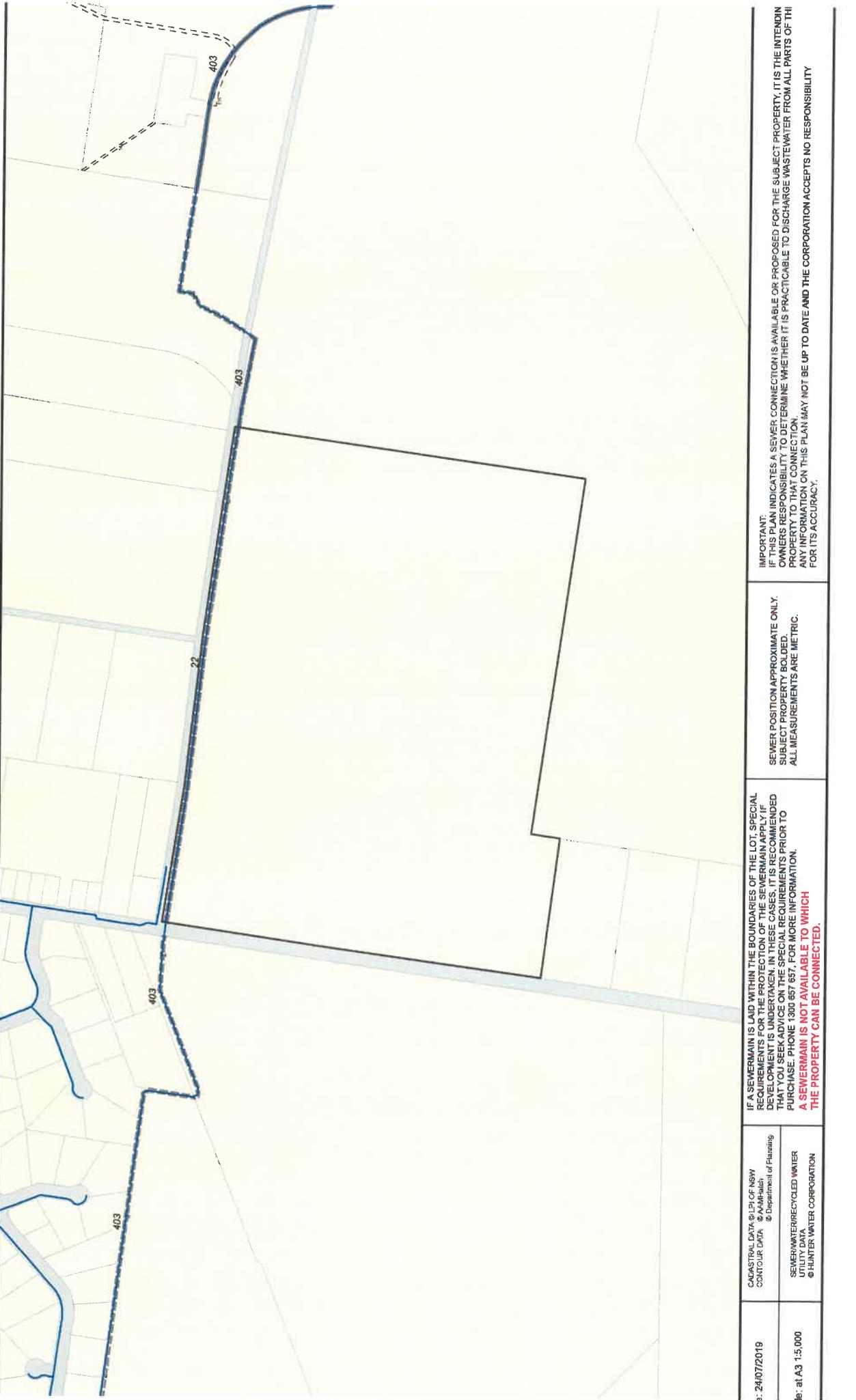
PROPERTY ADDRESS: 44 CHRISTOPHER RD LOCHINVAR 2321  
LOT/SECTION/DP/SP: 310W /DP 1034974

APPLICANT REF: M 1819

N/A

N/A

LOT/SECTION/DP/SP: 310W /DP 1034974



© 24/07/2019 Le: A3 1:5,000	CADASTRAL DATA © LPI OF NSW CONTOUR DATA © Am-Hach © Department of Planning SEWER/INTER/RECYCLED WATER UTILITY DATA © HUNTER WATER CORPORATION	IF A SEWERMAIN IS LAID WITHIN THE BOUNDARIES OF THE LOT, SPECIAL REQUIREMENTS FOR THE PROTECTION OF THE SEWERMAIN APPLY IF DEVELOPMENT IS UNDERTAKEN. IN THESE CASES, IT IS RECOMMENDED THAT YOU SEEK ADVICE ON THE SPECIAL REQUIREMENTS PRIOR TO PURCHASE. PHONE 1300 657 657. FOR MORE INFORMATION, <b>A SEWERMAIN IS NOT AVAILABLE TO WHICH THE PROPERTY CAN BE CONNECTED.</b>	IMPORTANT: IF THIS PLAN INDICATES A SEWER CONNECTION IS AVAILABLE OR PROPOSED FOR THE SUBJECT PROPERTY, IT IS THE INTEND OWNER'S RESPONSIBILITY TO DETERMINE WHETHER IT IS PRACTICABLE TO DISCHARGE WASTEWATER FROM ALL PARTS OF THI PROPERTY TO THAT CONNECTION. ANY INFORMATION ON THIS PLAN MAY NOT BE UP TO DATE AND THE CORPORATION ACCEPTS NO RESPONSIBILITY FOR ITS ACCURACY.
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Revenue

Enquiry ID	3192692
Agent ID	81429403
Issue Date	09 Jan 2020
Correspondence ID	1699490650
Your reference	1819

INFOTRACK PTY LIMITED  
DX Box 578  
SYDNEY

## Purchaser Copy

**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
D1034974/310	44 CHRISTOPHER RD LOCHINVAR 2321	\$3 370 000

There is **land tax** (which may include surcharge land tax) charged on the land up to and including the 2020 tax year.  
As the certificate has issued with a charge, the owner of the land will need to arrange for the charge to be removed.

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?

A charge is removed for this property when the outstanding land tax amount is processed and paid in full. Payment can be made during settlement via an accepted Electronic Lodgement Network or at an approved settlement room.

To determine the land tax amount payable, you must use one of the following approved supporting documents:

- Current year land tax assessment notice. This can only be used if the settlement date is no later than the first instalment date listed on the notice. If payment is made after this date interest may apply.
- Clearance quote or settlement letter which shows the amount to clear.

The charge on the land will be considered removed upon payment of the amount shown on these documents

### How do I get an updated certificate?

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

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 7808 6906

Help in community languages is available.



Enquiry ID	3192692
Agent ID	81429403
Issue Date	09 Jan 2020
Correspondence ID	1699490650
Your reference	1819

INFOTRACK PTY LIMITED  
DX Box 578  
SYDNEY

## Vendor Copy

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

This information is based on data held by Revenue NSW.

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Land ID	Land address	Taxable land value
D1034974/310	44 CHRISTOPHER RD LOCHINVAR 2321	\$3 370 000

There is **land tax** (which may include surcharge land tax) charged on the land up to and including the 2020 tax year.

As the certificate has issued with a charge, the owner of the land will need to arrange for the charge to be removed.

The owner:

- will be contacted by us OR receive an assessment notice;
- should then pay the amount due shown on the assessment notice;
- can then update the certificate through their Client Service Provider (CSP), or online at [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au) allowing sufficient time for the payment to be processed.

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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?

A charge is removed for this property when the outstanding land tax amount is processed and paid in full. Payment can be made during settlement via an accepted Electronic Lodgement Network or at an approved settlement room.

To determine the land tax amount payable, you must use one of the following approved supporting documents:

- Current year land tax assessment notice. This can only be used if the settlement date is no later than the first instalment date listed on the notice. If payment is made after this date interest may apply.
- Clearance quote or settlement letter which shows the amount to clear.

The charge on the land will be considered removed upon payment of the amount shown on these documents

### How do I get an updated certificate?

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

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



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