

Disclosure Statement – Off the Plan Contracts

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

VENDOR	XGP Development Pty Ltd ACN 620 220 984 as trustee for the JBJ Trust
PROPERTY	Lot [], "Golden Rise", 37-39 Kelly Street, Austral NSW 2179

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					
Completion	Completion Date is the later of 35 days from the contract date and 21 days after the day on which the vendor serves notice of the registration of the Documents.	Refer to clause(s):	Clause 42		
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	Refer to clause(s):	Clause 43
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:	Penalty interest being 10% per annum on the balance of the price and any other monies outstanding calculated from the period from the day after the Completion Date to the day of Completion (Clause 47.1 of the Contract). \$330.00 if the vendor issues a notice to complete (Clause 47.3(a)(i) of the Contract). \$110.00 if the purchaser cancels a booking for Completion or fails to complete at a scheduled Completion booking time (Clause 47.3(a)(ii)).		
Has development approval been obtained?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Development Approval No:	Development Consent Number DA-430/2018 (as amended from time to time).		
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 40 of the Contract provides that if the vendor has not satisfied the Acquisition Condition Precedent (being the vendor becoming the registered proprietor of the Development Site) by 31 December 2021 which can be extended by the vendor by 12 months for more than once, the vendor can rescind the Contract. Clause 41 of the Contract provides that if the		

			<p>vendor has not satisfied the Presale Condition Precedent (being the vendor achieving presales for lots within the Development to satisfy the vendor's financier) by 31 December 2021 which can be extended by the vendor by 12 months more than once, the vendor can rescind the Contract.</p> <p>Clause 42.2 of the Contract provides that the vendor must satisfy the Condition Precedent (being registration of the Documents) by the Sunset Date (as extended in accordance with clause 43).</p>
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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 | |

Signed, sealed and delivered by

in the presence of:

Signature of witness

Signature of

Full name of witness (print)

Address of witness (print)

Signed, sealed and delivered by

in the presence of:

Signature of witness

Signature of

Full name of witness (print)

Address of witness (print)

Executed by

in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

Signed, sealed and delivered for and on behalf of

Attorney

under power of attorney dated
in the presence of:

Signature of witness

Signature of attorney

Full name of witness (print)

By executing this deed the attorney states that the attorney has not received notice of revocation of the power of attorney at the date of executing this deed.

Address of witness (print)

Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent		
co-agent		
Vendor	XGP DEVELOPMENT PTY LTD ACN 620 220 984 AS TRUSTEE FOR THE JBJ TRUST Level 16, 5 Martin Place, Sydney NSW 2000	
vendor's solicitor	BHL LEGAL PTY LTD ACN 636 936 439 Level 16, 5 Martin Place, Sydney NSW 2000	
date for completion	See clause 42 (clause 15)	
land (address, plan details and title reference)	Lot XXX, Golden Rise, Stage 2, 37-39 Kelly Street, Austral NSW 2179 Lot XXX in an unregistered plan of subdivision of proposed lot 31 in an unregistered plan of subdivision being a subdivision of Lots A and B in Deposited Plan 391036 being part of Folio Identifiers A/391036 and B/391036	
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	documents in the List of Documents as marked or numbered: 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	
price	\$
deposit	\$ (10% of the price, unless otherwise stated)
balance	\$
contract date	(if not stated, the date this contract was made)

buyer's agent

see execution pages

vendor

witness

see execution pages

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

witness

BREACH OF COPYRIGHT MAY RESULT IN LEGAL ACTION

Error! Unknown document property name.

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** (GST residential withholding payment) ☐ NO ☒ yes (if yes, vendor must provide further details)

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

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: XGP Development Pty Ltd

Supplier's ABN:

Supplier's GST branch number (if applicable): Not applicable

Supplier's business address: Level 16, 5 Martin Place, Sydney NSW 2000

Supplier's email address: accounts@bhlgroup.com.au

Supplier's phone number: 02 9048 9888

Supplier's proportion of **GSTRW payment**: 100%

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): 7% of the Price

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): Not applicable

List of Documents

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

Executed by XGP Development Pty Ltd ACN 620 220 984 as trustee for the JBJ Trust in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

Execution by purchaser

Signed, sealed and delivered by
in the presence of:

Signature of witness

Signature of purchaser

Full name of witness (print)

Address of witness (print)

Signed, sealed and delivered by
in the presence of:

Signature of witness

Signature of purchaser

Full name of witness (print)

Address of witness (print)

Executed by

in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

Tax File Number Notification and FIRB Declaration

Lot Number:

Apartment Number:

Purchaser 1 Name:

Purchaser 1 Address:

Purchaser 1 Tax File Number:

Purchaser 1 Date of Birth:

Purchaser 1 Citizenship:

If not Australian citizen, what is
your residency status:

Temporary resident / Permanent resident

Purchaser 1 (sign)

Purchaser 2 Name:

Purchaser 2 Address:

Purchaser 2 Tax File Number:

Purchaser 2 Date of Birth:

Purchaser 2 Citizenship:

If not Australian citizen, what is
your residency status:

Temporary resident / Permanent resident

Purchaser 2 (sign)

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 th 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"> • issued by a <i>bank</i> and drawn on itself; or • if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served by the party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 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

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

9 Purchaser's default

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

10 Restrictions on rights of purchaser

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

- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.
- 13 Goods and services tax (GST)**
- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.

- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the 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**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
 - 18.2 The purchaser must not before completion –
 - 18.2.1 let or part with possession of any of the *property*;
 - 18.2.2 make any change or structural alteration or addition to the *property*; or
 - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
 - 18.3 The purchaser must until completion –
 - 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.

- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

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

20 Miscellaneous

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
- 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 earned by the fund that has been applied for any other purpose; and
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- a proper notice of the transfer (an attornment notice) addressed to the tenant;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and

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

25 Qualified title, limited title and old system title

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

26 Crown purchase money

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

27 Consent to transfer

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

28 Unregistered plan

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

29 Conditional contract

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

30 Electronic transaction

- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is 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 caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i> | the Electronic Conveyancing National Law (NSW); |
| <i>effective date</i> | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date; |
| <i>electronic document</i> | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ; |
| <i>electronic transfer</i> | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties'</i> <i>Conveyancing Transaction</i> ; |
| <i>electronic transaction</i> | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ; |
| <i>electronically tradeable</i> | a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ; |
| <i>incoming mortgagee</i> | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price; |
| <i>mortgagee details</i> | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion; |
| <i>participation rules</i> | the participation rules as determined by the <i>ECNL</i> ; |
| <i>populate</i> | to complete data fields in the <i>Electronic Workspace</i> ; and |
| <i>title data</i> | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> . |

31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *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**
- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by 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.

37-39 Kelly St AUSTRAL NSW 2179

Special Conditions

Golden Rise - Stage 2

**XGP Development Pty Ltd ACN 620 220 984 as trustee for
the JBJ Trust (Vendor)**

Ref KG:AS:1002404

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Special Conditions

34. Definitions and interpretation clauses

Unless the context requires otherwise, the following words when used in a defined sense have these meanings in this contract:

Act	means the <i>Conveyancing Act 1919</i> (NSW).
Authority	means a government or semi-governmental, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body having jurisdiction over the Development and includes the Council and any principal certifying authority.
Acquisition Condition Precedent	means the vendor becoming the registered proprietor of the Development Site.
Acquisition Condition Precedent Sunset Date	means 31 December 2021.
Bank Guarantee	<p>means an irrevocable and unconditional undertaking in favour of the vendor for an amount being 10% of the price which:</p> <ul style="list-style-type: none"> (a) is issued by AMP Bank, ANZ Bank, Bank of Queensland, Bank of Western Australia, Bendigo and Adelaide Bank, Commonwealth Bank, Citibank, HSBC, Macquarie Bank, National Australia Bank Limited, St George Bank, Suncorp or Westpac Bank; (b) contains terms and conditions acceptable to the vendor in the vendor's absolute discretion; and (c) does not specify an expiry date or if it has an expiry date, an expiry no earlier than 6 months after the Sunset Date.
Certificate	means the certificate or certificates under s10.7 of the <i>Environmental Planning and Assessment Act 1979</i> , a copy or copies of which is or are attached to this contract.

Claim	means any claim, losses, Costs, charges, allegation, suit, action, demand, cause of action or proceeding of any kind made under or in connection with this contract or the Property whether or not it arises at law or in any other way.
Commissioner	means the Commissioner of Taxation.
Completion	means completion of this Contract and complete and completed have corresponding meanings.
Completion Date	means the date for Completion determined in accordance with clause 42.1.
Conditions Precedent	<p>means:</p> <ul style="list-style-type: none">(a) registration of the Documents; and(b) if not previously served by the vendor, notification of a Material Change to the Disclosure Statement (if applicable).
Conditions Precedent Notice	<p>means a written notice or notices from the vendor stating that the Conditions Precedent has been satisfied together with</p> <ul style="list-style-type: none">(a) copies of the registered Documents; and(b) if clause (b) applies in the definition of Conditions Precedent, notification of a Material Change to the Disclosure Statement.
Costs	<p>include:</p> <ul style="list-style-type: none">(a) costs, charges and expenses, including those incurred in connection with advisers, experts and consultants (including legal costs calculated on a solicitor and own client basis);(b) damages, losses, injury (whether actual or contingent) suffered or incurred by a party; and(c) any fines, penalties, interest or similar item imposed by any legislation.
Council	means Liverpool City Council.

Default	means where the purchaser has failed to comply with a term or condition of this contract.
Deposit	means an amount equivalent to 10% of the price.
Depositholder	means the HWL Ebsworth Lawyers.
Development	means the development proposed to be carried out on the Development Site by the vendor generally described in Schedule 1.
Development Activities	<p>means:</p> <ul style="list-style-type: none"> (a) any form of demolition work, excavation work or landscaping work on the Development Site ; (b) any form of building work or work ancillary to or associated with building work on the Development Site including, without limitation, the installation of services (including embedded networks), construction of roads and associated civil works, demolition of existing structures and site remediation; (c) the staging of the Development; (d) the staging of the registration of plans of subdivision in respect of the Development; (e) the addition, amendment or deletion of lots; (f) the registration of the Plan of Subdivision, the Subdivision Plan Instrument and any other documents, instruments, dealings or plans for the purposes of the Development; (g) obtaining any such approvals required by the vendor for carrying out the Development; (h) any work other than the work referred to in paragraphs (a) and (b) of this definition which is considered necessary or desirable by the vendor in respect of the Development including any environmental remediation and other similar work; (i) the consolidation of land forming the Development Site or part of the Development Site; (j) the subdivision of land forming part of the

Development Site; and

- (k) the dedication, transfer, lease or other disposal to an Authority of land forming part of the Development Site.

Development Consent

means DA-430/2018 as varied from time to time.

Development Site

means lots A and lot B in deposited plan 391036 comprised in certificates of title folio identifiers A/391036 and B/391036 as subdivided from time to time.

Disclosures

means the disclosure of information, concepts and proposals described in Schedule 1 and other clauses in and annexures and schedules to this contract regarding the Development and the Development Site.

Disclosure Statement

means the disclosure statement in accordance with section 66M of the Act (as amended in accordance with this contract.

Documents

means the following:

- (a) Plan of Subdivision;
- (b) Subdivision Plan Instrument;
- (c) Preliminary Plan of Subdivision; and
- (d) Preliminary Subdivision Plan Instrument.

Draft Plan of Subdivision

means the plan contained in Attachment 1.

Draft Section 88b Instrument

means the instrument contained in Attachment 2.

Draft Preliminary Plan of Subdivision

means the plan contained in Attachment 3, being a subdivision of lots A and B in deposited plan 391036.

Draft Preliminary Section 88b Instrument

means the instrument contained in Attachment 4.

Foreign Person	has the same meaning as given in the <i>Foreign Acquisitions and Takeovers Act 1975</i> .
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
GST Withholding Amount	means the amount payable to the Commissioner and determined under section 14-250 of the Withholding Law.
Material Change	<p>a change to the Disclosure Statement is such a change that the purchaser:</p> <ul style="list-style-type: none"> (a) would not have entered into the contract had the purchaser been aware of the change in the Disclosure Statement; and (b) would be materially prejudiced to the change in the Disclosure Statement <p>but the purchaser acknowledges and agrees that a Material Change does not mean any of the matters specified in sub-clauses (c) to (d) of the definition arising from:</p> <ul style="list-style-type: none"> (c) a reduction in the area of the Property as shown on the Draft Plan of Subdivision by 5% or less when compared to the area of the Property in the Plan of Subdivision; (d) a change permitted under this contract; and (e) a change in the proposed lot number of the Property.
New Document	has the meaning given to it in clause 44.2(d).
Objection	means a Claim, requisition or objection or direction and includes delay Completion or terminate this contract.
Plan of Subdivision	means the plan of subdivision creating the Property generally consistent with the Draft Plan of Subdivision with or without changes permitted under this contract.
Preliminary Plan of Subdivision	means the plan of subdivision creating proposed lot 31 in an unregistered subdivision being a subdivision of lots A and B in deposited plan 381036.

Preliminary Subdivision Plan Instrument	means the instrument setting out the terms of easements, restrictions on the use of land and covenants generally consistent with the Preliminary Draft Section 88b Instrument.
Presale Condition Precedent	means the vendor achieving presales for lots within the Development to satisfy the vendor's financier.
Presale Condition Precedent Sunset Date	means 31 December 2021.
Property	has the meaning given to ' <i>property</i> ' in the Standard Form.
Registrar General	means the general manager of NSW Land & Property Information.
Replaced or Replacement Document	has the meaning given in clause 44.2(c).
Service Providers	includes Council, any Authority and any company in the business of supplying services to the public.
Special Conditions	means these special conditions attached to this contract.
Standard Form	means the standard form Contract for Sale of Land – 2019 Edition.
Subdivision Plan Instrument	means the instrument setting out the terms of easements, restrictions on the use of land and covenants generally consistent with the Draft Section 88b Instrument.
Sunset Date	means the date set out in Schedule 2.
Tax Declaration	means a declaration in the terms contained in Attachment 8.
Third Party Vendor	means the third party vendor appointed by the vendor in accordance with clause 57.

Treasurer	means the Treasurer of the Commonwealth of Australia.
Trust	means the trust created under the Trust Deed upon which the purchaser enters into this contract as trustee.
Trust Deed	means the deed creating the trust of which the purchaser is trustee.
Unnecessary Document	has the meaning given in accordance with clause 44.2(b).
Vendor's Representative	means the representatives nominated by the Vendor from time to time.
Withholding Law	means Schedule 1 to the <i>Taxation Administration Act 1953</i> (Cth).

35. Interpretation

35.1 In this contract unless the contrary intention appears:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) a gender includes any gender;
- (d) if a word or phrase is defined, then its other grammatical forms have a corresponding meaning;
- (e) a reference to person includes:
 - (i) a body corporate, an unincorporated body or other entity;
 - (ii) a reference to that person's executors, administrators, successors, permitted assigns and substitutes; and
 - (iii) a person to whom this contract is novated;
- (f) a reference to a clause, is to a clause of this contract;
- (g) a reference to a schedule, annexure or attachment is to a schedule, annexure or attachment to this contract;

- (h) a reference to a specific document is to that document as amended, novated, supplemented, varied or replaced;
 - (i) a reference to a thing, including but not limited to a right, includes a reference to a part of that thing;
 - (j) a reference to legislation includes but is not limited to a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument under it;
 - (k) a reference to conduct, includes but is not limited to, an omission, statement or undertaking whether or not in writing;
 - (l) an agreement, representation or warranty in favour of two or more people is for the benefit of them jointly and severally;
 - (m) an agreement, representation or warranty on the part of two or more people binds them jointly and severally;
 - (n) if a period of time runs to or from a given date, act or event, then the time is calculated exclusive of the date, act or event;
 - (o) a reference to a day is a reference to a period of time commencing at midnight and ending 24 hours later;
 - (p) In the Standard Form, all reference to objection, requisition or claims is a reference to Objection in these Special Conditions; and
 - (q) a reference to time is a reference to Sydney time.
- 35.2 The provisions of this contract, which are intended to have application after Completion, continue to apply from Completion.
- 35.3 If there is an inconsistency between the Standard Form and the Special Conditions, then the Special Conditions prevail.

36. Amendments to Standard Form

The following clauses in the Standard Form are amended:

- (a) by deleting clause 3;
- (b) by deleting clause 4.1 and inserting the following provision:

If applicable, the purchaser must serve the form of the transfer within 7 days after the day on which the vendor serves notice of the registration of the Documents.
- (c) by deleting clause 5.1;
- (d) by deleting clause 5.2.1 and inserting the following provision:

If it arises out of this contract or is a general question about the property or title – within 10 days after the day on which the vendor serves notice of registration of the Documents.

- (e) by deleting clause 5.2.2 and inserting the following provision:

If it arises out of anything served by the vendor on the purchaser - within 10 days after the day on which the vendor serves notice of registration of the Documents.

- (f) by deleting clause 7.1.1;

- (g) by deleting clause 8.1 and inserting the following provision:

The vendor can rescind if:

8.1 *the vendor is unable or unwilling to comply with an objection, requisition or claim;*

8.2 *the vendor serves notice of intention to rescind, which specifies the objection, requisition or claim; and*

8.3 *the purchaser does not serve a notice waiving the objection, requisition or claim within 10 business days after that service.;*

- (h) clause 13.7.2 is amended by inserting after the word 'Completion' the words 'or within 10 business days of a liability arising under this clause 13.7, if it arises after Completion';

- (i) clause 18 is amended by adding the following provision:

18.8 *The purchaser cannot make a requisition or claim after entering into possession; and; and*

- (j) the following new clause 20.6 is inserted:

"20.6.8 served on the purchaser if a drop box link is provided by email or fax to the purchaser's solicitor"; and

- (k) clauses 22 to 30 (inclusive) and 32 are deleted.

37. Disclosure Statement

37.1 Disclosure Statement attached to contract

The purchaser acknowledges and agrees that the Disclosure Statement was provided by the vendor to the purchaser in accordance with the Act.

37.2 No Objection

The purchaser acknowledges and agrees that the purchaser has read and understood the Disclosure Statement and the purchaser must not make any Objection to the Disclosure Statement.

38. Deposit

38.1 Payment of Deposit

The purchaser must pay to the vendor the Deposit on the contract date.

38.2 Investment of Deposit

- (a) The vendor and the purchaser authorises the Depositholder to invest the Deposit in an interest bearing account pending Completion.
- (b) Within 5 business days from the contract date, the purchaser must give to the Depositholder the completed and signed Tax Declaration.
- (c) If the purchaser does not comply with clause 38.2(b) and tax is payable on the interest earned on the Deposit then:
 - (i) it is an expense of the purchaser only; and
 - (ii) clause 38.2(e)(ii) no longer applies and if this contract is Completed, interest will be paid to the vendor.
- (d) The purchaser acknowledges and agrees that:
 - (i) an error in the adjustment in the calculation of interest does not affect the rights of a party arising out of the required adjustment; and
 - (ii) the Depositholder is not liable to a party for an error in this adjustment.
- (e) All interest earned on the Deposit less all government and bank charges, must be paid as follows:
 - (i) \$220.00 (including GST) to the Depositholder as consideration for its services as described in this clause 38.2;

- (ii) if this contract is Completed, the balance after deduction of all government taxes and charges and the Cost in clause 38.2(e)(i) is paid to the vendor and the purchaser in equal shares; and
 - (iii) if this contract is rescinded or terminated, to the party entitled to the Deposit after deduction of all government taxes and charges and the Cost in clause 38.2(e)(i).
- (f) The vendor and purchaser authorise the Depositholder to arrange for the Deposit and any interest earned on the Deposit to be released into the Depositholder's trust account within a reasonable time before lodgement of the Documents at Land Registry Services.
- (g) On Completion, the Depositholder is authorised to disburse the Deposit and any interest earned on the Deposit as follows:
- (i) the Deposit as directed by the vendor;
 - (ii) if the purchaser is entitled to a share of interest earned on the Deposit, adjust the purchaser's share of the interest in favour of the purchaser; and
 - (iii) the interest earned on the Deposit to the vendor.

39. Bank Guarantee

39.1 Delivery of Bank Guarantee

- (a) The purchaser may give to the vendor a Bank Guarantee for the amount of the Deposit on or before the contract date in lieu of paying the Deposit in accordance with clause 38.
- (b) Clause 39.1(a) is an essential term of this contract.

39.2 Substitute Bank Guarantee if Sunset Date extended

If:

- (a) the vendor gives to the purchaser a notice extending the Sunset Date; and
- (b) the Bank Guarantee given by the purchaser provides for an expiry date that expires prior to the Sunset Date (as extended),

the purchaser must give to the vendor a substitute Bank Guarantee on the same terms and conditions as the original Bank Guarantee except that the substitute Bank Guarantee cannot expire prior to the date 6 months after the Sunset Date (as extended).

39.3 Bank Guarantee expired

If:

- (a) the Bank Guarantee has an expired date; and
- (b) completion for any reason has not taken place at least 6 months before that expiry date,

the purchaser must promptly but no later than 6 months before the expiry date of the bank guarantee give to the vendor a substitute Bank Guarantee on the same terms and conditions as the original Bank Guarantee except that the substitute Bank Guarantee cannot expire prior to the date 3 months after the Sunset Date, time being of the essence.

39.4 Completion

On Completion the purchaser must pay to the vendor, in addition to all other money payable under this contract, the amount stipulated in the Bank Guarantee.

39.5 Vendor's right to call on Bank Guarantee

- (a) The vendor may claim on the Bank Guarantee at any time after the purchaser Defaults.
- (b) The vendor may apply money that it receives from the Bank Guarantee, towards money including but not limited to damages that the purchaser must pay to the vendor in relation to this contract.
- (c) If the purchaser Defaults, then without reference to the purchaser:
 - (i) the vendor may claim under the Bank Guarantee; and
 - (ii) must not do anything that would prevent the vendor claiming the Bank Guarantee.
- (d) The vendor and the bank may act despite the purchaser's Objection.

39.6 Essential term

Clause 39 is an essential term of this contract.

40. Completion subject to satisfaction of Acquisition Condition Precedent

40.1 Completion subject to satisfaction or waiver of Acquisition Condition Precedent

- (a) Completion of this contract is subject to satisfaction by the vendor of the Acquisition Condition Precedent on or before the Acquisition Condition Precedent Sunset Date.

- (b) If the vendor has not satisfied the Acquisition Condition Precedent by the Acquisition Condition Precedent Sunset Date, then:
 - (i) the vendor may rescind this contract by notice to the purchaser; or
 - (ii) the vendor may give to the purchaser a notice extending the Acquisition Condition Precedent by 12 months (**Extended Acquisition Condition Precedent Sunset Date**).
- (c) If the vendor gives to the purchaser a notice in accordance with clause 41.1(b)(i), this contract is at an end and clause 19 will apply.
- (d) If:
 - (i) the vendor gives to the purchaser a notice in accordance with clause 41.1(b)(ii); or
 - (ii) the vendor does not give a notice to the purchaser in accordance with either clauses 41.1(b)(i) or 41.1(b)(ii),

the Acquisition Condition Precedent Sunset Date is extended to the Extended Acquisition Condition Precedent Sunset Date.
- (e) The vendor may extend the Acquisition Condition Precedent Sunset Date for more than once.
- (f) If the vendor does not satisfy the Acquisition Condition Precedent by the Extended Acquisition Condition Precedent Sunset Date, the vendor may rescind this contract and clause 19 will apply.

41. Completion subject to satisfaction of Presale Condition Precedent

41.1 Completion subject to satisfaction or waiver of Presale Condition Precedent

- (a) Completion of this contract is subject to satisfaction by the vendor of the Presale Condition Precedent on or before the Presale Condition Precedent Sunset Date.
- (b) If the vendor has not satisfied the Presale Condition Precedent by the Presale Condition Precedent Sunset Date, then:
 - (i) the vendor may rescind this contract by notice to the purchaser; or
 - (ii) the vendor may give to the purchaser a notice extending the Presale Condition Precedent by 12 months (**Extended Presale Condition Precedent Sunset Date**).
- (c) If the vendor gives to the purchaser a notice in accordance with clause 41.1(b)(i), this contract is at an end and clause 19 will apply.

- (d) If:
 - (i) the vendor gives to the purchaser a notice in accordance with clause 41.1(b)(ii); or
 - (ii) the vendor does not give a notice to the purchaser in accordance with either clauses 41.1(b)(i) or 41.1(b)(ii),

the Presale Condition Precedent Sunset Date is extended to the Extended Presale Condition Precedent Sunset Date.
- (e) The vendor may extend the Presale Condition Precedent Sunset Date more than once.
- (f) If the vendor does not satisfy the Presale Condition Precedent by the Extended Presale Condition Precedent Sunset Date, the vendor may rescind this contract and clause 19 will apply.

42. Completion

42.1 Completion

The date for Completion is the later of:

- (a) 35 days from the contract date; and
- (b) 21 days after the day on which the vendor serves the Condition Precedent Notice.

42.2 Satisfaction of Condition Precedent

- (a) Completion is subject to and conditional on the satisfaction of the Condition Precedent.
- (b) The vendor must use all reasonable endeavours to satisfy the Condition Precedent on or before the Sunset Date.
- (c) Subject to Division 10 of the Act, if the Condition Precedent is not satisfied on or before the Sunset Date then either the vendor or the purchaser may rescind this contract by written notice to the other provided that no such right of rescission shall be exercisable by the purchaser if the vendor gives notice to the purchaser that the Condition Precedent is satisfied.

43. Extension of Sunset Date

43.1 Extension of Sunset Date

Despite clause 43.2, the vendor may by notice to the purchaser extend the Sunset Date:

- (a) by each day that the vendor or the vendor's builders have been delayed in the construction of the Development or the registration of the Documents by reason of:
 - (i) inclement weather or conditions resulting from inclement weather; or
 - (ii) any civil commotion, combination of workman or strikes or lockouts affecting the progress of the work or affecting the manufacture or supply of materials for the construction of the Development;
 - (iii) any delay by Council or any Authority in approving, signing or registering any Documents; and
 - (iv) any other matter beyond the vendor's control; or
- (b) if required by the vendor or the vendor's financier.

43.2 Vendor's Representative sole determination

- (a) The Vendor's Representative is the sole determiner of the vendor's entitlement to extension of time under clause 43.1.
- (b) The Vendor's Representative acts as an expert and not an arbitrator.
- (c) The Vendor's Representative's decision is final, conclusive and binding on the parties.

44. Change of Documents

44.1 Registration of Documents

The vendor intends to have the Documents registered before Completion.

44.2 Replacement, amendment or new documents

At any time before the vendor serves the Conditions Precedent Notice(s), the vendor may:

- (a) change the Disclosure Statement;
- (b) remove a document or plan from registration (**Unnecessary Document**);
- (c) replace a document or plan (**Replaced Document**) with another document or plan (**Replacement Document**); or
- (d) add a document or plan which relates to a matter in this contract, including, but not limited to any documents in relation to the Plan of Subdivision (**New Document**).

44.3 Material Change affects the Property

- (a) If:
 - (i) the removal of the Unnecessary Document; or
 - (ii) the Replacement Document or New Document,

is a Material Change or the Disclosure Statement is deemed inaccurate as a result of a Material Change, the vendor must serve a notice to this effect together with copies of the relevant Replacement Document or New Document (as the case may be) and if applicable, the new Disclosure Statement which specifies the detail and effect.
- (b) If the vendor serves a notice in accordance with clause 44.3(a) and the Material Change is such that the purchaser:
 - (i) would not have entered into the contract had the purchaser been aware of the Material Change; and
 - (ii) would be materially prejudiced by the Material Change,

the purchaser may, within 14 days after the day the notice is served, rescind this contract or make a claim for compensation in accordance with the Act by written notice to the vendor (time being of the essence).
- (c) If the purchaser does not serve a notice in accordance with clause 44.3(b), the purchaser's right to rescind or make a claim for compensation in accordance with the Act no longer applies to the documents in question.
- (d) If clause 44.3(c) does not apply, the Unnecessary Document or Replaced Document (as the case may be) is taken to no longer be attached to this contract and the Replacement Document or New Document (as the case may be) is taken to be attached to this contract.

45. Development Activities and selling activities

45.1 Vendor may undertake Development Activities and selling activities

- (a) Both before and after Completion and until the vendor completes the Development and sold lots the Development, the vendor and persons authorised by the vendor may:
 - (i) undertake Development Activities;
 - (ii) conduct selling activities in and about the Development Site (but not the Property);

- (iii) place and maintain in and about the Development Site (but not the Property) signage including without limitation, directional signs and signs in connection with selling leasing activities; and
- (iv) place and maintain in and about the Development Site (but not the Property) marketing and sales facilities and equipment including without limitation, offices and other facilities for sales people.
- (b) In exercising its rights under clause 45.1(a), the vendor must cause as little interference as is possible to the purchaser's enjoyment of the Property.
- (c) This clause 45.1 will not merge on Completion and continues in full force and effect until the vendor has completed the Development and sold and leased all lots in the Development.
- (d) The purchaser may not make an Objection arising out of the matters in this clause 45.1 or do any act or thing to restrain the vendor (or its agents) from exercising its rights in this clause 45.1.

46. Purchaser's representations and warranties

46.1 Purchaser's representations

The purchaser represents and warrants that:

- (a) it was not induced to enter into this contract by and did not rely on any representations made by the vendor, the vendor's agent or persons on behalf of the vendor, or warranties about the subject matter of this contract (including, without limitation, representations or warranties about the nature or the fitness or suitability for any purpose of the Property or the view from the Property or about any financial return or income that may be able to be derived from the Property or anything in an advertisement, sales brochure, report or marketing plans or on display either at a display suit or online) except those representations and warranties expressly set out in this contract or implied by law;
- (b) it has relied entirely on its own enquires relating to the Property prior to entering into this contract including the obtaining of independent legal advice;
- (c) it has satisfied itself as to its obligations and rights under this contract; and
- (d) it has inspected all documentation attached to this contract, and is aware of all of the terms of and restrictions and prohibitions contained in the documentation attached to this contract.

46.2 No Objection by purchaser

The purchaser must not make any Objection in respect of a matter disclosed or referred to in this contract or the documentation attached to this contract.

46.3 No merger

This clause does not merge on Completion.

47. Interest on delayed Completion and Notice to Complete

47.1 Interest on delayed Completion

- (a) If the purchaser Completes this contract but does not do so on or before the Completion Date, then on the actual date of Completion, the purchaser must pay interest on:
 - (i) the balance of the price; and
 - (ii) any other amount that the purchaser must pay to the vendor under this contract.
- (b) The purchaser must pay the interest at a rate of 10% per annum calculated daily for the period from and including the day after the Completion Date, up to and including the actual date of Completion.
- (c) Despite Standard Form clause 14, the parties must make adjustments at the earlier of the Completion Date, the date possession is given to the purchaser and the actual date of Completion.
- (d) Payment of interest under this clause 47.1 is an essential term of this contract and is the vendor's genuine pre estimate of the damage suffered by the vendor due to the purchaser's failure to Complete on the Completion Date.
- (e) The purchaser need not pay interest for as long as the purchaser is ready, willing and able to Complete but Completion cannot take place because the vendor cannot Complete.

47.2 Notice to complete

- (a) If the purchaser does not Complete on the Completion Date, the vendor may give to the purchaser a notice to Complete which provides for Completion at least 10 business days after service of that notice. The purchaser acknowledges and agrees that 10 business days is a reasonable period of time for such a notice.
- (b) If the vendor has served a notice to complete, the vendor may at any time:
 - (i) withdraw the notice to Complete by further notice to the purchaser and at the vendor's option, issue a further notice to Complete; or
 - (ii) unilaterally extend the time allowed by the notice to Complete, with such extended time remaining of the essence of the notice to Complete and this contract.

- (c) The vendor will not be regarded as not being ready, willing and able to complete this contract because of the existence of a charge or outgoing, which charge or outgoing will be paid or removed on Completion.
- (d) Without limiting any other provision of this contract, the vendor is not required to remove any charge on the Development Site for any outgoing if it will be discharged on or prior to Completion.

47.3 Additional Charges

- (a) The purchaser acknowledges and agrees that the following additional charges must be paid on Completion (where applicable):
 - (i) \$330.00 if the vendor issues a notice to complete in accordance with clause 47.2;
 - (ii) \$110.00 if the purchaser cancels a booking for Completion or fails to Complete this contract at a scheduled Completion booking, such that a second or subsequent Completion booking is required. This amount is payable for each cancelled booking or where a booking does not result in Completion; and
 - (iii) \$110.00 for the vendor to assist in the replacement of a Bank Guarantee.
- (b) It is an essential provision of this contract that the amounts specified in clause 47.3(a) are paid on Completion in addition to all other moneys required to be paid by the purchaser under this contract at that time.

48. Council rates and land tax

48.1 Adjustment of Council rates

If, at Completion, a separate assessment for Council rates in respect of the Property for the year current at Completion has not been issued, no regard is to be had to the actual separate assessment if and when it issues and:

- (a) the vendor must pay or procure the payment of the actual separate assessment if and when it issues for the year current at Completion; and
- (b) on Completion the purchaser must adjust the amount referred to in Schedule 3 and in accordance with clause 14.

48.2 Adjustment of Land tax

If, at Completion, a separate assessment for land tax in respect of the Property for the year current at Completion has not been issued, no regard is to be had to the actual separate assessment if and when it issues and:

- (a) the vendor must pay or procure the payment of the actual separate assessment if and when it issues for the year current at Completion; and
- (b) on Completion, the vendor and purchaser must adjust the amount referred to in Schedule 3 and in accordance with clause 14.

48.3 Completion between January and March of each year

- (a) In the event Completion occurs between 1 January and 1 March of any year, the purchaser must accept from the vendor an undertaking to pay any outstanding land tax payable and must not require the vendor to clear any outstanding land tax on or before Completion.
- (b) If as a result of the purchaser's breach or an extension requested by the purchaser, completion of this contract takes place on a date that is after 31 December immediately following the original Completion Date then:
 - (i) the purchaser's breach or extension will result in an increase in the vendor's land tax assessment for the land tax year following the original Completion Date as a result of the property continuing to be included in the vendor's total landholdings in the State of New South Wales; and
 - (ii) the additional land tax that the vendor will incur in accordance with this clause is a reasonably foreseeable loss or cost incurred by the vendor as a direct result of the purchaser's breach or extension in respect of which the vendor is entitled to compensation or reimbursement from the purchaser.
- (c) If this clause applies then on completion, in addition to the balance of the price and any other money payable to the vendor under this contract, the purchaser must pay to the vendor as compensation or reimbursement on account of the additional land tax being incurred by the vendor, an amount equal to 1.7% of:
 - (i) the taxable value of the property (as defined in the *Land Tax Management Act 1956* (NSW) for each relevant land tax year(s); or
 - (ii) if there is no separate unimproved value for the property for any Land Tax Year(s), the amount reasonably determined by the vendor as the estimated taxable value for the relevant land tax year(s) (being an amount no greater than the price).
- (d) If the additional land tax payable by the vendor under clause 48.3(b) is less than the amount paid by the purchaser under clause 48.3(c), the vendor must refund the difference to the purchaser within 21 days of the vendor receiving notice of assessment of land tax payable for the Development Site.

48.4 **Payment by vendor**

The vendor must, before Completion, pay or procure the payment of:

- (a) any assessment for Council rates; and
- (b) any assessment of land tax,

issued before Completion for any land which includes the Property or for the Property, either in full or to the extent necessary to free the Property from any charge for payment of rates, but if the current assessment relates to the Development Site and not just the Property then the vendor by virtue of this clause undertakes to pay the current assessment by the due instalment dates and shall also pay the separate assessment (if any) which subsequently issues for the current period (or part period up to Completion) in respect to the Property.

49. **Agent**

49.1 **Warranty by purchaser**

- (a) The purchaser has dealt only with the agent(s) nominated in this contract.
- (b) The purchaser warrants that it has not dealt with another real estate agent in relation to the Property in a way that may give rise to a Claim against the vendor for agent's commission or expenses in respect of the sale effected by this contract.

49.2 **Indemnity by purchaser**

- (a) The purchaser indemnifies the vendor against any Claim arising out of a breach of the purchaser's warranty contained in clause 49.1(b).
- (b) This clause 49.2 does not merge on Completion.

50. **Death, incapacity or insolvency**

50.1 **Vendor's right to rescind**

The vendor may rescind this contract, if the purchaser is an individual who and where there is more than one, either purchaser:

- (a) dies; or
- (b) becomes incapable because of unsoundness of mind, to manage the purchaser's own affairs.

50.2 **Vendor's right to terminate**

- (a) The vendor may terminate this contract if:

- (i) the purchaser is an individual and is declared bankrupt or enters into any scheme with, or makes any assignment of this estate for the benefit of, the purchaser's creditors;
- (ii) if the purchaser is a company, which:
 - (A) resolves to go into liquidation;
 - (B) has a petition for its winding-up presented and not withdrawn within 30 days of presentation;
 - (C) enters into a scheme of arrangement with its creditors under the *Corporations Act 2001* or similar legislation; or
 - (D) has a liquidator, provisional liquidator, administrator, receiver or receiver and manager of it appointed.
- (b) If anything in clause 50.2(a) occurs, then the purchaser has failed to comply with an essential provision of this contract

50.3 Vendor's rights not affected

The vendor may rescind or terminate this contract under this clause 50, without affecting any of its other rights.

51. Entries or notations on folios of register

51.1 Notations on title

The purchaser is aware that entries or notations in or substantially in the form set out in Part 1 of Schedule 5 together with other entries or notations are or may be on the folio of the register for the Property.

51.2 No Objection by purchaser

The purchaser may not make any Objection because of the matters specified in clause 51.1 or of any departure on the terms of the documents giving rise to the entries or notations specified in Schedule 5.

52. Personal Property Securities Act 2009 (PPSA)

The vendor discloses and the purchaser acknowledges and agrees that on Completion the vendor may be subject to charge(s) or notifications under the Personal Property Securities Act 2009. The purchaser cannot require the vendor to take any action in relation to such charge or notification.

53. Guarantee and indemnity

- (a) The Guarantor gives the guarantee and indemnity in Schedule 6.
- (b) If the purchaser is a company which is not listed on the Australian Stock Exchange, then the purchaser must procure that the directors of that company give the guarantee and indemnity in Schedule 6.

54. Caveat by purchaser

54.1 Purchaser prohibited to lodging caveat

Subject to clause 54.2 the purchaser must not lodge a caveat on any folio of the certificate of title for the Development Site.

54.2 Purchaser may lodge a caveat after registration of the Documents

- (a) The purchaser may lodge a caveat on the folio of the register for the Property after the issue of the certificate of title for the Property.
- (b) If a caveat is lodged by or on behalf of the purchaser in accordance with clause 54.2(a), any assignee of the purchaser's interest under this contract or any person claiming through or under the purchaser is recorded on the folio of the register for the Property, the purchaser must Complete this contract despite the caveat.

55. Requisitions on title

The purchaser is not permitted to make or submit any requisition on title.

56. Resale

56.1 Vendor's consent to resell

Subject to clause 56.2, the purchaser warrants to the vendor that it will not without the vendor's prior written consent (such consent to be withheld at the vendor's sole discretion):

- (a) advertise or offer to sell or otherwise dispose of its interest or any part of its interest in the Property; or
- (b) enter into, or purport to enter into, any contract, deed or agreement to sell or otherwise dispose of its interest or any part of its interest in the Property (whether by way of contract for sale, call option, put option, put and call option or any other arrangement);

to any other person before Completion of this contract.

56.2 Conditions of consent

- (a) If the vendor gives consent for the purchaser to advertise or offer to sell the Property or enter into or purport to enter into, any contract, deed or agreement to sell the Property (whether by way of contract for sale, call option, put option, put and call option or any other arrangement) to sell or otherwise dispose of its interest or any part of its interest in the Property, the following conditions apply:
 - (i) any advertising or marketing material intended to be used for the sale of the Property by the purchaser must be in accordance with the standard, quality and look of the advertising and marketing material used by the vendor for the sale of other lots in the Development;
 - (ii) copies of the proposed advertising and marketing material to be used by the purchaser must first submitted to the vendor for the vendor's prior written approval;
 - (iii) the purchaser will not use any advertising or marketing material for the sale of the Property which has been used by the vendor for the sale of other lots in the Development;
 - (iv) no signage will be placed on the Property by the purchaser or its agent(s) or anyone on behalf of the purchaser; and
 - (v) the advertising, marketing and/or sale of the Property must not or not be likely to detrimentally affect the vendor's sale of other lots in the Development or for the vendor to obtain any finance for the Development.

56.3 If the purchaser does not comply with clauses 56.1 and/or clause 56.2 (as the case may be), the vendor may sue the purchaser for damages or exercise its rights under clause 9 of this contract.

57. Assignment by Vendor to Third Party Vendor

57.1 Vendor permitted to transfer to Third Party Vendor

The purchaser acknowledges and agrees that the vendor may transfer the Property or the Development Site to a Third Party Vendor prior to Completion.

57.2 If vendor transfers to Third Party Vendor

- (a) If the vendor transfers the Property or the Development Site to a Third Party Vendor, the vendor must give to the purchaser written notice to that effect, such notice to include the name of the Third Party Vendor.
- (b) If the vendor gives to the purchaser a notice in accordance with clause 57.2(a):

- (i) the purchaser agrees to the transfer of the Property or the Development Site to the Third Party Vendor in accordance with this clause 57.2;
 - (ii) the purchaser agrees to the vendor novating the vendor's rights and obligations under this contract to the Third Party Vendor; and
 - (iii) the purchaser must accept on Completion a transfer of the Property in registrable form duly executed by the Third Party Vendor.
- (c) If required by the vendor, the purchaser must enter into a deed of novation to novate the vendor's rights and obligations under this contract from the vendor to the Third Party Vendor in accordance with the following provisions:
- (i) the vendor must, at its Cost (up to \$200.00 plus GST), prepare the deed of novation;
 - (ii) the vendor and the purchaser must sign the deed of novation within 5 business days from the date the deed of novation is issued by the vendor; and
 - (iii) the deed of novation must contain a provision releasing the vendor from all of the vendor's obligations under this contract.

58. GST - General

- 58.1 The price includes GST.
- 58.2 The vendor and purchaser agree to utilise the margin scheme in paying GST in respect of the taxable supply under this contract.
- 58.3 The vendor acknowledges and undertakes to the purchaser that the vendor must pay all GST which becomes payable in respect of any taxable supply (as defined in the GST Act).
- 58.4 The purchaser agrees that:
- (a) the purchaser will not be entitled to claim an input tax credit in respect of the GST payable by the vendor; and
 - (b) the vendor is not required to give the purchaser a tax invoice.
- 58.5 Subject to any requirement under the GST Act, the purchaser agrees the vendor is not liable to disclose the basis upon which it calculates its GST liability on this sale.
- 58.6 The purchaser acknowledges that changes may be made to the GST Act to alter the manner in which the GST payable in respect of the price is paid under this contract and the purchaser agrees to comply with all reasonable directions of the vendor in respect of that payment in accordance with the GST Act provided that the price is not increased as a result of that compliance.

59. GST Withholding

59.1 Interpretation

In this clause 59, words or expressions that are defined or used in the Withholding Law have the same meaning given to them in the Withholding Law, unless the context suggests otherwise.

59.2 Withholding

- (a) The vendor irrevocably directs the purchaser to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner (**GST Cheque**).
 - (i) The purchaser must provide the GST Cheque to the vendor on or before Completion.
 - (ii) On Completion, or within such further period as may be allowed by the Commissioner, the vendor must give the GST Cheque to the Commissioner.
- (b) If Completion is to be conducted through the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions, the vendor and the purchaser will be taken to have complied with clause 59.2(a) if the electronic settlement schedule within the electronic workspace used for Completion specifies payment of the GST Withholding Amount to the bank account nominated by the Commissioner.

59.3 No Effect on Other Terms

Except as expressly set out in this clause 59, the rights and obligations of the parties under this contract are unaffected, including (without limitation) any agreement to apply the margin scheme on the supply of the property.

60. Stamp duty

60.1 Payment of stamp duty

The purchaser must pay all stamp duty, including but not limited to:

- (a) fines and penalties relating to this contract;
- (b) an instrument entered into under this contract; and
- (c) a transaction evidenced by this contract.

60.2 Indemnity by purchaser

The purchaser indemnifies on demand the vendor against a liability for stamp duty.

61. Development Site

61.1 Development of Development Site

- (a) The vendor makes no representations nor gives any warranties (whether expressed or implied) in relation to the future development of the Development Site. The purchaser acknowledges that any statements, representations or other information made or provided by the vendor or a representative of the vendor in relation to the proposed future development of the Development Site:
 - (i) represent the vendor's current vision for the development of the Development Site and are subject to change; and
 - (ii) are not promises or representations that particular land will be developed at a particular time, or for a particular use, or will be developed at all.
- (b) The purchaser represents to the vendor that in entering into this contract and purchasing the Property, it has not relied on any statements, representations or other information made or provided by the vendor or the representatives of the vendor in relation to the proposed future development of the Development Site in deciding to enter into this contract and acknowledges that the future development of the Development Site is within the absolute discretion of the vendor.

61.2 No objection

Subject to the provisions of this contract the purchaser must not Object to the vendor's development of the Development Site or to any of the matters raised in this clause 61.

62. Entire agreement

- 62.1 This contract constitutes the entire agreement of the parties about the sale of the Property.
- 62.2 This contract supersedes all previous agreements, understandings and negotiations on the sale of the Property.
- 62.3 This contract may be amended or varied by written memorandum signed by both the vendor and purchaser.

63. Certain provisions apply after Completion

The provisions of this contract that are on their terms intended to have application after Completion continue to apply despite Completion.

64. Exercise of certain rights to rescind

If a right to rescind given by a clause in this contract is not exercised within the period specified for its exercise it may not be exercised.

65. Governing law, jurisdiction and service of process

- 65.1 This contract is governed by the law enforced in New South Wales.
- 65.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum and that both courts do not have jurisdiction.
- 65.3 Any document in an action (including, without limitation, any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at that party's solicitor's address.

66. Part IV Conveyancing Act 1919

- 66.1 The purchaser acknowledges the specific disclosure by the vendor in the Certificate of the environmental planning instrument affecting the property and that the purchaser has or is taken to have inspected those instruments and is aware of all restrictions and prohibitions on development of the land to which those instruments relate.
- 66.2 Where the information, express or implied, contained in the Certificate is inconsistent with the Disclosures in this clause, the Disclosures in this clause prevail to the extent of the inconsistency.
- 66.3 The purchaser may not, subject to anything to the contrary in Part IV of the Act, make any Objection because of anything referred to in the Certificate.
- 66.4 If the purchaser makes any claim that this contract does not comply with the requirements of Part IV of the Act the purchaser bears the onus of establishing that this contract does not comply with the requirements.

67. FIRB Approval

67.1 Vendor does not have FIRB approval

The Vendor does not have the Treasurer's approval to sell up to 50% of the residential lots in the Development Site to Foreign Persons.

67.2 Warranty by purchaser

- (a) Subject to clause 67.2(b), the purchaser warrants to the vendor:
 - (i) it is not a Foreign Person; and
 - (ii) the Treasurer cannot prohibit and has not prohibited the transfer of the Property to the purchaser under the *Foreign Acquisitions and Takeovers Act 1975*.
- (b) If the purchaser is a Foreign Person, on or before the contract date (or another date nominated by the vendor), the purchaser must:
 - (i) inform the vendor of that fact; and
 - (ii) make an application to the Treasurer for approval for the transfer of the Property to the purchaser under the *Foreign Acquisitions and Takeovers Act 1975* and to keep the vendor informed of the progress of the application.
- (c) If the purchaser is unable to obtain the approval of the Treasurer within 42 days from the contract date, either party may rescind this contract and clause 19 will apply.
- (d) The purchaser agrees its promise in clauses 67.2(b) or 67.2(c) (as applicable), is an essential term of this contract a breach of which will entitle the vendor to terminate this contract.

68. Electronic Completion

68.1 Electronic Completion

- (a) The vendor and purchaser acknowledge and agree that this is an Electronic Completion which will be conducted in an Electronic Workspace created by the vendor.
- (b) The vendor must create an Electronic Workspace in relation to this contract and invite the purchaser within a reasonable period prior to the Completion Date.
- (c) As soon as reasonably practicable after accepting an invitation from the vendor to join the Electronic Workspace, the purchaser must invite the Purchaser's Financial Institution (if any) to join the Electronic Workspace.

68.2 Conduct of Parties

- (a) Each party must:
 - (i) conduct the Electronic Settlement in accordance with the ECNL and the Participation Rules; and
 - (ii) do all things necessary to effect the Electronic Settlement in accordance with this contract.
- (b) The purchaser acknowledges and agrees that unless expressly objected by the purchaser, the Depositholder is authorised to upload, verify, release and distribute the Deposit and interest earned on the deposit in the Electronic Workspace on Completion.
- (c) A party is not in default to the extent that it is prevented from or delayed in complying with an obligation because the other party, the other Party's Representative or the other Party's Financial Institution (if any) has failed to do anything that it is required to do in the Electronic Workspace.
- (d) In the event that the purchaser changes its Representative, the purchaser must:
 - (i) ensure that the purchaser's Representative immediately withdraws from the Electronic Workspace;
 - (ii) provide the vendor with the contact details for the purchaser's replacement Representative; and
- (e) ensure that the purchaser's replacement Representative joins the Electronic Workspace as soon as practicable after the original Representative withdraws from the Electronic Workspace.
- (f) The vendor is not in default to the extent that it is prevented from or delayed in complying with an obligation as a result of a breach of clause 68.2(b) to (d).

68.3 Completion Time

- (a) As soon as reasonably practicable after the vendor has created the Electronic Workspace, the vendor must nominate the Completion Time.
- (b) If the parties cannot agree on the Completion Time, the Completion Time to deemed to be 12.00pm.

68.4 Party must not terminate this contract

A Party may not exercise any right under this contract or at law to terminate this contract during the period of time the Electronic Workspace is locked for Electronic Completion.

68.5 Standard provisions

In respect of an Electronic Completion:

- (a) the purchaser is taken to have complied with clause 4.1 of the Standard Conditions by preparing and Digitally Signing an electronic transfer in the Electronic Workspace at least 7 days before the Completion Date;
- (b) the vendor is taken to have complied with clause 16.1 of the Standard Conditions if, at settlement, the Electronic Workspace contains:
 - (i) the electronic transfer which has been Digitally Signed by the vendor; and
 - (ii) any other electronic document which is required to be provided by the vendor for the electronic lodgement of the transfer in the NSW Land Registry Services;
- (c) clauses 16.5, 16.8, 16.11, 16.12 and 16.13 do not apply; and
- (d) if there is any Access Device, the purchaser may collect the Access Device from the vendor or the Vendor's Representative (as applicable) after completion.

68.6 Completion

- (a) The purchaser acknowledges and agrees that the vendor is not required to provide the purchaser with the original certificate of title for the property.
- (b) Completion occurs when the Electronic Workspace records that Financial Completion has occurred.
- (c) If completion does not occur at the Completion Time, the parties must do all things reasonably necessary to effect completion electronically on the same day or on the next business day.
- (d) No party is in default under this contract, if completion does not occur at the Completion Time because a computer system operated by the NSW Land Registry Services, PEXA, the Office of State Revenue, the Reserve Bank of Australia or a Bank involved in the transaction is inoperative.
- (e) In the event that the computer system operated by the NSW Land Registry Services is inoperative at the Completion Time, the parties agree to proceed to Financial Completion notwithstanding the unavailability of electronic lodgement with the NSW Land Registry Services.
- (f) Each party must pay its own fees and charges in connection with the Electronic Completion including any fees and charges payable to PEXA or the NSW Land Registry Services.

68.7 Inconsistency

To the extent there is any inconsistency between this clause 68, the Standard Conditions and any other clause of this contract, this clause 68 prevails over the Standard Conditions and any other clause to the extent of the inconsistency.

68.8 Definitions

In this clause 68:

Access Device means:

- (a) each key and security device which enables access to the property; and
- (b) written details of each code which applies in respect to any security system applicable to or which enables access to the property.

Completion Time means the time of day on the Completion Date when the Electronic Completion is to occur, as nominated in accordance with clause 65.3 or otherwise agreed by the parties.

Conveyancing Transactions has the meaning given to it in the ECNL.

Digitally Sign has the meaning given to it in the ECNL.

ECNL means the Electronic Conveyancing National Law (NSW) as enacted in New South Wales by the *Electronic Conveyancing (Adoption of National Law) Act 2012* (NSW).

Electronic Completion means a settlement which is conducted using an ELN in accordance with the ECNL.

Electronic Workspace means a shared electronic workspace generated by the ELN.

ELN has the same meaning given to it in the ECNL.

Financial Institution means a financial institution as defined in section 3 of the *Cheques Act 1986* (Cth).

Financial Completion means the exchange of funds or value between the Financial Institutions in accordance with the instructions of the parties.

Participation Rules means the rules relating to the use of an ELN as determined by the registrar-general under the *Real Property Act 1900* (NSW) pursuant to section 23 of the ECNL.

PEXA means Property Exchange Australia Ltd, being an electronic lodgement network operator.

Purchaser's Financial Institution means the financial institution who is providing money to the purchaser to complete this contract.

Representative means a person who is either a legal practitioner or conveyancer and who has been appointed to act for a party in relation to transaction contemplated by this contract.

69. Purchaser as Trustee

69.1 Purchaser Warranty

- (a) Unless disclosed on the contract front page, the purchaser warrants that it is not entering into this contract as a trustee of a trust.
- (b) In the event the purchaser is a trust of a trust this clause 69 applies.

69.2 Trustee Warranty

If the purchaser enters into this contract as a trustee, the purchaser represents and warrants to the vendor that:

- (a) it is the only trustee of the Trust;
- (b) no action has been taken or is proposed to remove it as trustee of the Trust;
- (c) it has power under the Trust Deed to enter into and comply with its obligations under this contract;
- (d) it has in full force and effect the authorisations necessary to enter into this contract, perform obligations under them and allow them to be enforced (including under the Trust Deed and its constitution (if any));
- (e) it has the right to fully indemnify out of the assets of the Trust in respect of obligations incurred by it under this contract and will exercise that right of indemnity;
- (f) it will not take any step to limit its right of indemnity and will not permit the Trust Deed to be amended to limit such right of indemnity;
- (g) the assets of the Trust are sufficient to satisfy any right of indemnity and all other obligations in respect of which the trustee has a right to be indemnified out of the assets of the Trust;
- (h) it is not, and never has been, in default under the Trust Deed;
- (i) no action has been taken or is proposed to terminate the Trust;
- (j) the Trust has the financial capacity and capability to complete this contract or to obtain finance in order to enable completion of this contract;
- (k) it and its directors and other officers have complied with their obligations in connection with the Trust; and
- (l) it has carefully considered the purpose of this contract and considers that entry into this contract is for the benefit of the beneficiaries and the terms of this contract are fair and reasonable.

Schedule 1 Vendor's Disclosures

1. Development

The vendor discloses the following about the Development and subdivision of the Development Site as at the contract date:

- (a) the vendor intends to subdivide the Development Site as follows:
 - (i) the Development Site will be subdivided to create 28 residential lots and 3 residue lots being proposed lots 129, 130 and 131 (**Stage 1**);
 - (ii) proposed lot 131 in Stage 1 will be subdivided to create 58 residential lots and 4 residue lots being proposed lots 259, 260, 261 and 262 (**Stage 2**);
 - (iii) subject to clause 4 of this Schedule 1, proposed lots 129, 130, 259, 260, 261 and 262 (**Residue Lots**) to be converted to residential lots.
- (b) the vendor, either alone or with others, proposes to carry out Development Activities on the Development Site and may do so in stages;
- (c) the Development Site will be subdivided by a series of plans of subdivisions;
- (d) as at the contract date, the vendor intends to procure the registration of the Preliminary Plan of Subdivision, Preliminary Subdivision Instrument, Plan of Subdivision and the Subdivision Plan Instrument generally on the terms of the relevant Documents;
- (e) the vendor does not warrant the accuracy or completeness of any document referred to in Schedule 4, that the Documents will be the same as the Disclosure Documents or that the Documents will not change;
- (f) all measurements, lot number, easements, restrictions and other encumbrances (or lack thereof) as shown on the Documents are provisional only and are subject to the approval of the Council, any other relevant Authority or the Registrar General;
- (g) the vendor may make such amendments, alterations, additions, modifications or deletions to the Documents and the Documents as deemed necessary or desirable to obtain the consent of the Council, any other relevant Authority;
- (h) the number or configuration of the lots in the Preliminary Plan of Subdivision and/or Plan of Subdivision as registered may vary from the number or configuration of lots as shown in the Draft Plan of Subdivision;
- (i) the Preliminary Plan of Subdivision and the Plan of Subdivision may occur as one plan and if so, the vendor has satisfied its obligations under this contract to register the Plan of Subdivision;

- (j) easements, restrictions on use or positive covenants may be imposed or required by Council or any other relevant Authority which are not disclosed in this contract;
- (k) the Property may contain retaining walls in accordance with section 18 of the Development Consent. Council may require an easement or a restriction on the use of land in relation to the maintenance of the retaining walls and the development of the Property as a result of the retaining walls;
- (l) condition 19 of the Development Consent requires the foundations of proposed structures adjoining the drainage and/or serves easement to be designed clear of the zone of influence;
- (m) turning heads may be constructed at the end of any roads that terminate at any stage of the development or do not have a safe and adequate connection to an existing road. If turning heads are constructed, the developer does not warrant the timing of the removal of the turning heads so that any roads can connect to an existing road or whether the turning heads will be removed; and
- (n) the Property number and/or address of the Property at Completion may be different from the address of the property referred to in this contract.

2. Service Providers

The vendor discloses:

- (a) it may be necessary to make changes to the Documents attached to this contract to meet the requirements of Council, Service Providers or an Authority;
- (b) arrangements with Service Providers for the provision of services to the Property may not have been concluded as at the contract date;
- (c) the vendor may enter into arrangements with Service Providers including, but not limited to easements, restrictions on use, positive covenants, leases, bonds, guarantees or security deposits; and
- (d) if a Service Provider requires one or more electrical substations to be established, the area of the electrical substations (of the size and location as required by Service Provider) may be dedicated, leased or encumbered by easement rights in favour of the Service Provider.

3. Fencing

The vendor discloses that the vendor is not providing fencing for the Property and is not required to contribute to the cost of fencing the Property, even though the vendor may own land adjoining the Property.

4. On site detention system

The vendor discloses:

- (a) on registration of the Plan of Subdivision, a temporary on-site detention basin will be constructed on proposed lots 129 and 130 servicing Stage 1 (**Stage 1 OSD**);
- (b) on registration of the subsequent plan of subdivision, a temporary on-site detention system will be constructed on proposed lots 259 to 262 servicing Stage 2 (**Stage 2 OSD**);
- (c) the Residue Lots will be burdened by a restriction on the use of land which provides that:
 - (i) fencing for the Stage 1 OSD must be erected along the Kelly Street boundary;
 - (ii) fencing for the Stage 2 OSD must be erected along the Boyd and Little Street boundary;
 - (iii) fencing must be maintained as determined by Council;
 - (iv) fencing must not be removed, damaged, destroyed or permitted to fall into disrepair; and
 - (v) fencing is not to be erected until approved by Council for lots
- (d) Sydney Water are constructing and providing drainage infrastructure to the South West;
- (e) the Stage 1 OSD and the Stage 2 OSD will be maintained by the vendor until the drainage in the Development is connected to Sydney Water's detention basin or the major trunk drainage system (**Connection**); and
- (f) once the Development is connected to Sydney Water's detention basis or the major trunk drainage system, the Stage 1 OSD and the Stage 2 OSD will be decommissioned by the vendor.

5. Services and utilities

The vendor discloses that:

- (a) the vendor may lay pipes and other conduits for the provision of water, sewerage, drainage, gas, electricity and other services and such services may require the creation of easements, restrictions on the use of land and/or positive covenants being registered on the property;
- (b) the purchaser takes the Property subject to the water, sewerage, drainage, gas, electricity and other installations of services (including such easements, restrictions on the use of land and positive covenants) existing on Completion (if applicable); and
- (c) specifically, the purchaser cannot make any Objection:
 - (i) because any connection or supply passes through any other property;

- (ii) because any connection or supply to any other property passes through the Property;
- (iii) because any water or sewerage main or any underground or surface stormwater pipe passes through over or under the Property or any part of it; or
- (iv) because any sewer manhole or vent is located on the Property or any part of it.

6. Effect of Disclosures

- (a) In this Schedule 1, the vendor discloses some of the Disclosures. The Disclosures reflect the vendor's current proposals and concepts in relation to the Development. Unless otherwise provided in this contract, the Disclosures do not impose obligations on the vendor any obligation to effect those proposals and concepts and nor do the Disclosures restrict the vendor from varying those proposals and concepts.
- (b) The purchaser acknowledges the Disclosures. The purchaser shall not be entitled to make any Objection because of any Disclosure in this Schedule 1 or elsewhere in this contract.

Schedule 2 Sunset Date (clause 42.2)

31 December 2023

Schedule 3 Rates (clause 48)

Item 1	Council Rates:	\$2,200.00	per annum
Item 2	Land tax	\$2,200.00	per annum

Schedule 4 Disclosure Documents

Part 1

The following documents are attached:

1. Draft Plan of Subdivision.
2. Draft Section 88b Instrument.
3. Draft Preliminary Plan of Subdivision.
4. Draft Preliminary Section 88B Instrument.
5. Title searches for the Development Site.
6. Deposited Plan for the Development Site.
7. Certificates pursuant to s10.7 of the *Environmental Planning and Assessment Act 1979* for the Development Site.
8. Sewerage diagrams.
9. Sewer reference sheets.
10. Tax File Number Notification and FIRB Declaration.

Schedule 5 Entries or Notations on Folios of Register (clause 51)

Part 1

1. Reservations and conditions in the Crown Grants.
2. Interests recorded on folio of the Register of the Property
3. Easements (if any); Restrictions on Use (if any), Positive Covenants (if any), created by the documents contemplated to be registered by this contract, including the attached documents.

Schedule 6 Guarantee and Indemnity (clause 53)

1. The Guarantor must execute this contract.
2. The Guarantor enters this contract, and incurs obligations and gives rights under the guarantee and indemnity, for the valuable consideration of among other things, the vendor agreeing to enter this contract at the request of the Guarantor.
3. The covenants, guarantees and indemnities in this Schedule 6 are severable.
4. The Guarantor unconditionally and irrevocably guarantees to the vendor:
 - (a) that the purchaser will pay to the vendor the balance of the price and every other amount that the purchaser must pay under this contract; and
 - (b) the performance of the purchaser's obligations.
5. The Guarantor indemnifies the vendor against a Claim relating to the purchaser's breach, default or attempted breach or default of its obligations.
6. This guarantee and indemnity:
 - (a) is a principal obligation;
 - (b) is irrevocable and remains in full force and effect until discharged; and
 - (c) binds the estates of each Guarantor.
7. The parties must not treat this guarantee and indemnity as ancillary or collateral to any other right or obligation.
8. The vendor may enforce this guarantee against the Guarantor without first exhausting a remedy that it may have against the purchaser.
9. The Guarantor must pay on demand any money due to the vendor that relates to the indemnity including but not limited to:
 - (a) the balance of the price;
 - (b) the adjustments due to the vendor on Completion; and
 - (c) interest that the purchaser must pay to the vendor.
10. The Guarantor and the purchaser are jointly and severally liable to the vendor for:
 - (a) the purchaser's observance and performance of its obligations; and
 - (b) damage that the vendor, incurs as a result of any one or more of:
 - (i) the purchaser's failure to observe and perform its obligations under this contract;

- (ii) its default under this contract; and
 - (c) the vendor's termination of this contract.
- 11. The purchaser or the Guarantor must pay all money payable to the vendor and duly perform their several obligations before either may claim or receive the benefit of:
 - (a) a dividend or distribution of a person, liable jointly with the purchaser or the Guarantor, to the vendor;
 - (b) a payment out of the estate or assets of a person, liable jointly with the purchaser or the Guarantor, to the vendor; or
 - (c) a payment in the liquidation, winding up or bankruptcy of a person, liable jointly with the purchaser or the Guarantor, to the vendor.
- 12. Clause 11 of this Schedule applies equally if the person is liable under a security for money that the purchaser or the Guarantor must pay.
- 13. The purchaser or the Guarantor must pay all money payable to the vendor and perform their several obligations before either may prove in competition with the vendor:
 - (a) in an estate; or
 - (b) in relation to an asset in a liquidation, winding up or bankruptcy.
- 14. Clause 13 of this Schedule only applies if the amount that the vendor is entitled to is reduced as a result.
- 15. Upon the written request of the vendor, the Guarantor must pay to the vendor all expenses that the vendor in respect of the vendor's exercise or attempted exercise of a right of each of them under this Schedule 6.
- 16. The Guarantor's obligations are not affected if:
 - (a) the vendor releases or enters into a composition with the purchaser;
 - (b) a payment made to the vendor is later avoided; or
 - (c) the vendor assigns or transfers the benefit of this contract.
- 17. If the vendor assigns or transfers the benefit of this contract, then the assignee receives the benefit of the Guarantor's covenants, agreements, guarantees and indemnities.
- 18. The obligations of the Guarantor under this Schedule 6 are not released, discharged or otherwise affected by:
 - (a) failure by one or more Guarantors to execute this guarantee and indemnity, validly or otherwise;
 - (b) the grant of time, waiver, covenant not to sue or other indulgence;

- (c) the release, including but not limited to a release as part of a novation, or discharge of a person;
- (d) an arrangement, composition or compromise that a person enters into;
- (e) an extinguishment, failure, loss, release, discharge, abandonment, impairment, compound, composition or compromise, in whole or in part of any document or agreement;
- (f) a variation of this contract including, but not limited to a variation in the date of Completion;
- (g) a moratorium or other suspension of a right, power, authority, discretion or remedy conferred on the vendor in any way;
- (h) payment to the vendor including but not limited to a payment which at or after the payment date is illegal, void, voidable, avoided or unenforceable;
- (i) the purchaser becoming insolvent, going into liquidation, official management, receivership, arrangement, administration or winding up; or
- (j) a person being appointed in respect of the purchaser or any of its assets or undertakings, including but not limited to a receiver or manager or both, or a liquidator, or administrator.

Signed, sealed and delivered by
in the presence of:

Signature of witness

Signature of

Full name of witness (print)

Address of witness (print)

Signed, sealed and delivered by
in the presence of:

Signature of witness

Signature of

Full name of witness (print)

Address of witness (print)

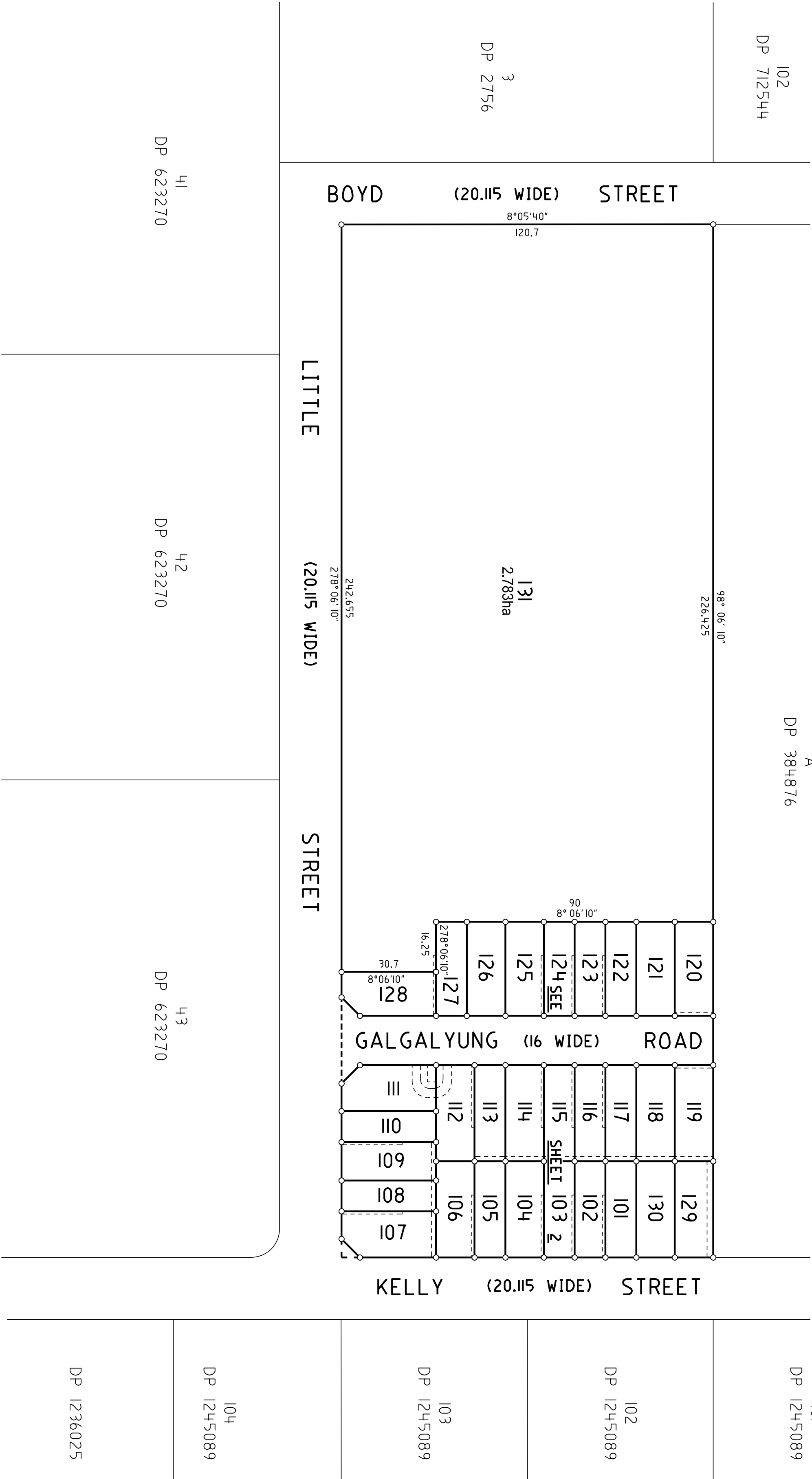
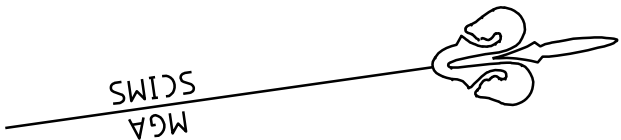
Schedule 7 Index of Attachments

1. Draft Plan of Subdivision.
2. Draft Section 88b Instrument.
3. Draft Preliminary Plan of Subdivision.
4. Draft Preliminary Section 88b Instrument.
5. Title searches for the Development Site.
6. Deposited Plan for the Development Site.
7. Certificates pursuant to s10.7 of the *Environmental Planning and Assessment Act 1979* for the Development Site.
8. Sewerage diagrams
9. Sewer reference sheets.
10. Tax File Number Notification and FIRB Declaration.

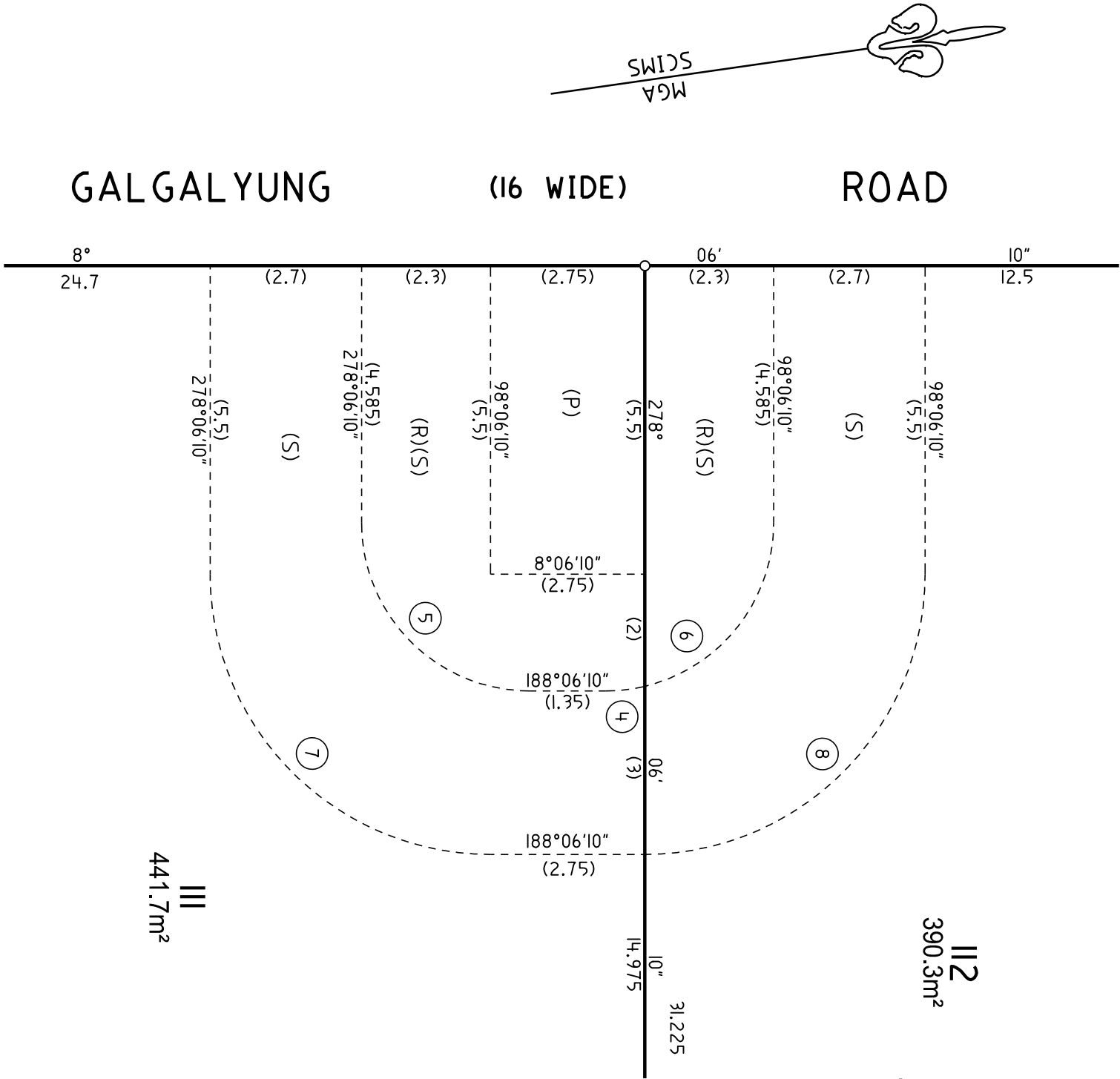
- NOTES:
1. DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY.

2. OTHER COVENANTS AND RESTRICTIONS MAY APPLY SUBJECT TO FINAL APPROVAL BY COUNCIL.

3. EASEMENT WIDTHS MAY VARY SUBJECT TO FINAL WORKS AS CONSTRUCTED SURVEY.



<div>SURVEYOR Name: DANIEL JAMES HANNIGAN T: (02) 8808 5000 Date of Survey: 17-002972 STG1 Reference:</div>	<div>PLAN OF SUBDIVISION OF LOTS A AND B IN DP 391036</div>	<div>L.G.A.: LIVERPOOL Locality: AUSTRAL Reduction Ratio: 1:1000 Lengths are in metres</div>	<div>Registered DRAFT</div>	<div>DP ?????</div>
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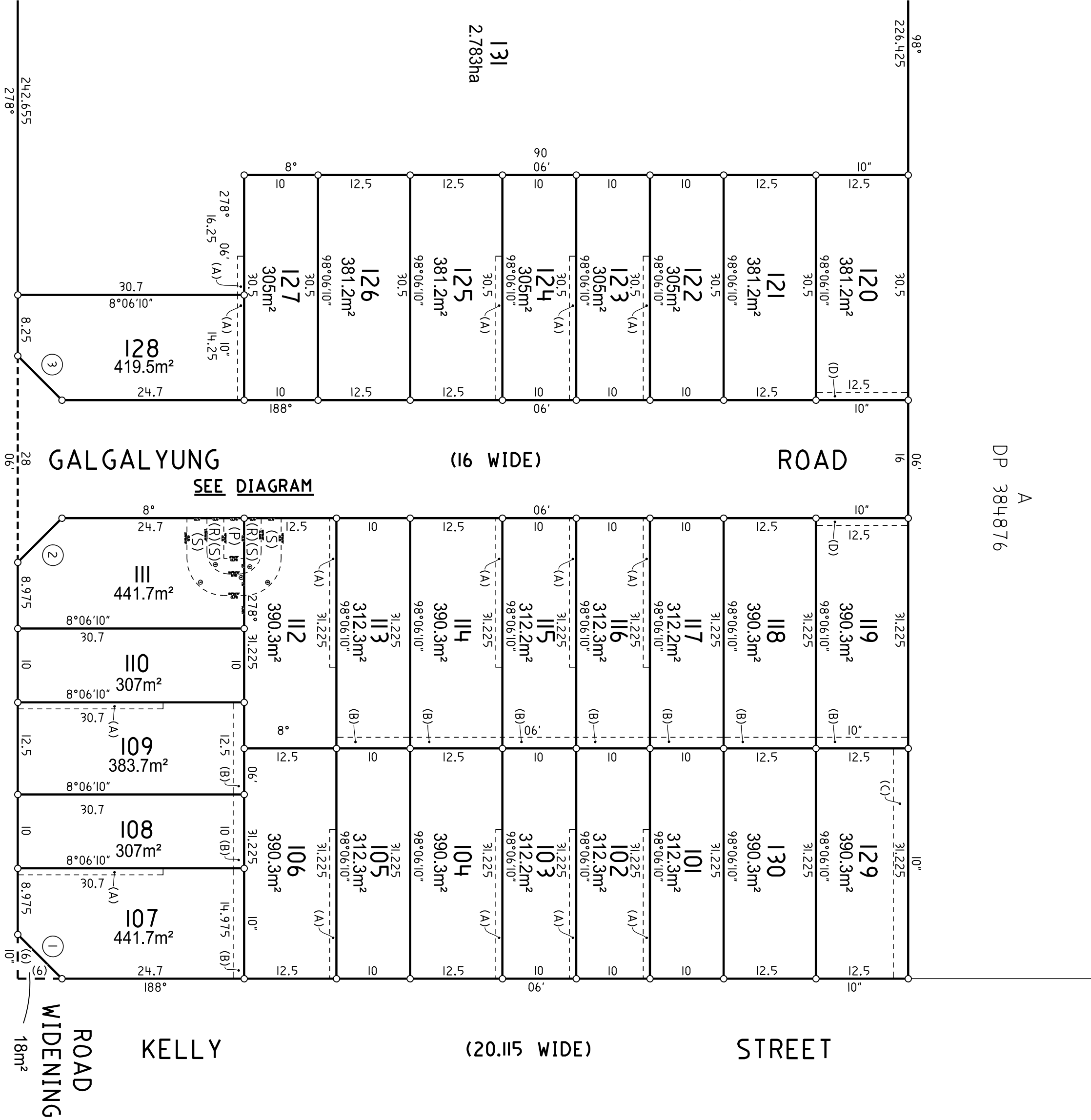


NOTES:
1. DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY.
2. OTHER COVENANTS AND RESTRICTIONS MAY APPLY SUBJECT TO FINAL APPROVAL BY COUNCIL.
3. EASEMENT WIDTHS MAY VARY SUBJECT TO FINAL WORKS AS CONSTRUCTED SURVEY.

No	BEARING	CHORD	ARC	RADIUS
1	53°06'10"	8.485		
2	323°06'10"	8.485		
3	233°06'10"	8.485		
4	181°21'20"	(0.705)	(0.705)	3
5	233°06'10"	(4.245)	(4.71)	3
6	136°21'20"	(3.715)	(4.005)	3
7	233°06'10"	(7.07)	(7.855)	5
8	143°06'10"	(7.07)	(7.855)	5

SCHEDULE OF SHORT & CURVED BOUNDARIES

- (A) EASEMENT FOR ACCESS, MAINTENANCE AND CONSTRUCTION 0.9 WIDE
(B) EASEMENT FOR DRAINAGE OF WATER 1.5 WIDE
(C) EASEMENT FOR DRAINAGE OF WATER 2 WIDE
(D) PUBLIC ACCESS EASEMENT 1 WIDE
(E) EASEMENT FOR PADMOUNT SUBSTATION 2.75 WIDE
(F) RESTRICTION ON THE USE OF LAND (VARIABLE WIDTH)
(G) RESTRICTION ON THE USE OF LAND (VARIABLE WIDTH)



LITTLE

(20.115 WIDE)

STREET

43
DP 623270

SURVEYOR DANIEL JAMES HANNIGAN
CALIBRE CONSULTING (NSW) P/L
Name: T: (02) 8808 5000
Date of Survey: 17-002972 STG1
Reference:

PLAN OF SUBDIVISION OF LOTS A AND B IN DP 391036

L.G.A.: LIVERPOOL
Locality: AUSTRAL
Reduction Ratio: 1:500
Lengths are in metres

Registered
DRAFT

DP 1245089

101
DP 1245089

102
DP 1245089

103
DP 1245089

104
DP 1245089

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 Section 88B of the Conveyancing Act 1919.

LENGTHS ARE IN METRES

Sheet 1 of 14 Sheets

Plan: DP STAGE 1

**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated**

Full name and address of the owner
of the land:

Lots A and B in DP 391036

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1.	Easement for Access, Maintenance and Construction 0.9 wide (A)	102 103 104 106 107 109 112 114 115 116 123 124 125 128 131	101 102 103 105 108 110 113 115 116 117 122 123 124 127 127

Plan: DP STAGE 1

Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated

PART 1 (Creation)
(Continued)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
2.	Easement for Drainage of Water 1.5 wide (B)	107 108 109 119 118 117 116 115 114 113	108 – 110 Inclusive 109 and 110 110 112 – 118 Inclusive 112 – 117 Inclusive 112 – 116 Inclusive 112 – 115 Inclusive 112 – 114 Inclusive 112 and 113 112
3.	Easement for Drainage of Water 2 wide (C)	129	112 – 119 Inclusive
4.	Public Access Easement 1 wide (D)	119 120	Liverpool City Council
5.	Easement for Padmount Substation 2.75 wide (P)	111	Epsilon Distribution Ministerial Holding Corporation
6.	Restriction on the Use of Land	Part 111 designated (R) Part 112 designated (R)	Epsilon Distribution Ministerial Holding Corporation

Plan: DP STAGE 1

Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated

PART 1 (Creation)
(Continued)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
7.	Restriction on the Use of Land	Part 111 designated (S) Part 112 designated (S)	Epsilon Distribution Ministerial Holding Corporation
8.	Restriction on the Use of Land (On site Detention Basin)	129 130	Liverpool City Council
9.	Positive Covenant (On site Detention Basin)	129 130	Liverpool City Council
10.	Restriction on the Use of Land (Driveway Crossings)	107 111 128	Liverpool City Council
11.	Restriction on the Use of Land (Developer Restrictions)	Each Lot except 131	Every other Lot except 131

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)****1. Terms of Easement for Access, Maintenance and Construction numbered 1 in the plan:**

- 1.1 In this Easement for Access, Maintenance and Construction:
'Easement Site' means that area of the lot burdened shown on the plan as affected by 'Easement for Access, Maintenance and Construction 0.9 wide'.
- 1.2 The grant of this easement is made subject to the existence of, and the right of the owner of the lot burdened to construct guttering from the structure on the lot burdened, that overhangs the site of the easement.
- 1.3 The grant of this easement is made subject to the right of the owner of the lot burdened to carry out repairs and maintenance or improvements to any landscaping within the site of the easement including installing a security gate at the entrance to the site of the easement from the front of the building structure on the lot burdened.
- 1.4 Subject to Clause 1.5, the owner of the lot benefited may:
- a) Install and maintain in the wall adjacent to the Easement Site one or more cavity weephole drainage points and drain water from the weephole, but only within the easement site.
 - b) Install and maintain on the wall adjacent to the Easement Site guttering that overhangs the Easement Site, and drain water but only within the guttering.
 - c) With prior reasonable notice given to the owner of the lot burdened, use the Easement Site for the purpose of carrying out necessary work (including construction, maintenance and repair) on:
 - (i) The lot benefited; and
 - (ii) Any structure belonging to the owner of the lot benefited, which cannot otherwise be reasonably carried out without accessing the Lot burdened; and
 - d) Do anything reasonably necessary for that purpose, including:
 - (i) Entering onto the lot burdened;
 - (ii) Taking anything onto the lot burdened; and
 - (iii) Carrying out necessary works.
- 1.5 The rights under this Easement for Access, Maintenance and Construction are:
- a) Limited to the extent necessary to permit the owner of the lot benefited to construct, maintain and repair any part of:
 - (i) The lot benefited; and
 - (ii) Any structure belonging to the owner of the lot benefited.
- 1.6 In exercising the rights under this clause, the owner of the lot benefited must:
- a) Ensure all work on the lot benefited is done properly and carried out as quickly as practicable;

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

- b) Cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened;
- c) Cause as little damage as is practicable to the lot burdened and any improvement on it;
- d) Restore the lot burdened as nearly as is practicable to its former condition; and
- e) Make good any collateral damage.

The owner of the lot burdened and the owner of the lot benefited acknowledge that it is not the responsibility of Liverpool City Council to determine any dispute in relation to the Easement for Access, Maintenance and Construction and any dispute is a civil matter to be resolved with the relevant parties.

Name of Authority required to consent to release, vary or modify the Easement for Access, Maintenance and Construction numbered 1 in the plan: Liverpool City Council.

2. Terms of Easement for Drainage of Water numbered 2 in the plan:

The Terms of the Easement for Drainage of Water are as prescribed in Part 8 of Schedule 8 of the Conveyancing Act 1919.

Name of Authority required to consent to release, vary or modify the Easement for Drainage of Water numbered 2 in the plan: Liverpool City Council.

3. Terms of Easement for Drainage of Water numbered 3 in the plan:

The Terms of the Easement for Drainage of Water are as prescribed in Part 8 of Schedule 8 of the Conveyancing Act 1919.

Name of Authority required to consent to release, vary or modify the Easement for Drainage of Water numbered 3 in the plan: Liverpool City Council.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)****4. Terms of Easement for Public Access numbered 4 in the plan:**

Terms of right of access as per Part 11 Schedule 4A of the Conveyancing Act 1919 as amended together with the following addition:

- a) The easement is a temporary extension of the adjoining public road and will function as a public road in accordance with the definition of “public road” included in the Roads Act 1993 for the purposes of providing access across the easement site.
- b) The easement site is made accessible to the public.
- c) The easement is a temporary right which must be removed upon the extension of the adjoining public road to which it relates.

Name of Authority required to consent to release, vary or modify the Easement for Public Access numbered 4 in the plan: Liverpool City Council.

5. Terms of Easement for Padmount Substation numbered 5 in the plan:

The terms set out in Memorandum No AK104621 registered at Land & Property Information NSW are incorporated into this document, subject to changing “Endeavour Energy” to “Epsilon Distribution Ministerial Holding Corporation”.

Name of Authority required to consent to release, vary or modify the Easement for Padmount Substation numbered five (5) in the plan: Epsilon Distribution Ministerial Holding Corporation. The cost and expense of any such release, variation or modification shall be borne by the persons or corporation requesting the same in all respects.

6. Terms of Restriction on the Use of Land numbered 6 in the plan:**1.0 Definitions**

- 1.1 **120/120/120 fire rating** and **60/60/60 fire rating** means the fire resistance level of a building expressed as a grading period in minutes for structural adequacy / integrity failure / insulation failure calculated in accordance with Australian Standard 1530.
- 1.2 **building** means a substantial structure with a roof and walls and includes any projections from the external walls.
- 1.3 **erect** includes construct, install, build and maintain.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

- 1.4 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.
- 2.0 No building shall be erected or permitted to remain within the restriction site unless:
- 2.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating, and
- 2.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating, and
- 2.3 the owner provides the authority benefited with an engineer's certificate to this effect.
- 3.0 The fire ratings mentioned in clause 2 must be achieved without the use of fire fighting systems such as automatic sprinklers.
- 4.0 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System
- 4.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation's distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation's distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation's distribution system from Epsilon Distribution Ministerial Holding Corporation.
- 4.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

7. Terms of Restriction on the Use of Land numbered 7 in the plan:

- 1.0 Definitions
- 1.1 **erect** includes construct, install, build and maintain.
- 1.2 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

2.0 No swimming pool or spa shall be erected or permitted to remain within the restriction site.

3.0 Lessee of Epsilon Distribution Ministerial Holding Corporation Distribution System

3.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation distribution system from Epsilon Distribution Ministerial Holding Corporation.

3.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

Name of Authority empowered to release, vary or modify the Restrictions numbered six (6) and seven (7) in the plan: Epsilon Distribution Ministerial Holding Corporation. The cost and expense of any such release, variation or modification shall be borne by the persons or corporation requesting the same in all respects.

8. Terms of Restriction on the Use of Land numbered 8 in the plan:

On-Site Detention Basin

The Registered Proprietors(s) covenant as follows with the Authority benefited in respect to the System that they will not, without the prior and express written consent of the Authority benefited:

- a) Do any act, matter or thing which would prevent the System from operating in a safe and efficient manner.
- b) Make or permit or suffer the making of any alterations or additions to the System.
- c) Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the System.

No fencing may be erected on the road frontage of the lot(s) burdened unless in accordance with the engineering plans for the System.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

Any fencing erected on the lot burdened must not be removed, damaged, destroyed or permitted to fall into disrepair.

No fencing may be erected on the lot(s) burdened unless

This restriction shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Conveyancing Act 1919.

For the purpose of this restriction, "the System" means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the lot burdened as required by Development Consent No. 430/2018 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. _____ dated _____ including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage.

Liverpool City Council will have no objection to the release of this restriction upon the relevant district downstream basins or major trunk drainage system being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary stormwater quality control devices and outlet works within the Lot hereby burdened.

Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 8 in the plan: Liverpool City Council.

9. Terms of Positive Covenant numbered 9 in the plan:**On-Site Detention Basin**

9.1 The Registered Proprietors(s) covenant as follows with the Authority benefited in respect to System, that they will:

- a) Keep the System clean and free from silt, rubbish and debris.
- b) Maintain and repair, at the sole expense of the registered proprietor(s), that part of the System contained within the registered proprietor's own lot, so that it functions in a safe and efficient manner, in accordance with the manufacturer's recommended requirements.
- c) For the purpose of ensuring observance of this covenant, permit Liverpool City Council or its authorised agents (hereinafter referred to as "the Council") from time to time and upon giving reasonable notice (but at any time without notice in the case of an emergency) to enter the land and inspect the condition of the System and the state of construction, maintenance or repair of the System, for compliance with the requirements of this covenant.
- d) Notify Council in writing after each programmed maintenance inspection.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

- e) Comply with the terms of any written notice issued by the Council to attend to any matters and carry out such work within the time stated in the notice, to ensure the proper and efficient performance of the System and to that extent Section 88F(2)(a) of the Conveyancing Act 1919 (hereinafter referred to as "the Act") is hereby agreed to be amended accordingly.
- f) Maintain any fencing on the lot burdened.

9.2 Pursuant to Section 88F(3) of the Act the Council shall have the following additional powers pursuant to this covenant:

- a) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council may enter the Lot burdened with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the aforementioned notice issued by Council.
- b) The Council may recover from the registered proprietor in a court of competent jurisdiction:
 - I. Any expense reasonably incurred by Council in exercising its powers in clause 9.2 a) above. Such expense shall include reasonable wages for employees engaged in effecting, supervising and administering the said work, together with costs, reasonable estimated by Council, for the use of materials, machinery, tools and equipment used in conjunction with the said work.
 - II. Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs, charges and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

9.3 This covenant shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Act.

For the purpose of this restriction, "the System" means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the lot burdened as required by Development Consent No. 430/2018 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. _____ dated _____ including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

Liverpool City Council will have no objection to the release of this restriction upon the relevant district downstream basins or major trunk drainage system being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary stormwater quality control devices and outlet works within the Lot hereby burdened.

Name of Authority empowered to release, vary or modify the Positive Covenant numbered 9 in the plan: Liverpool City Council.

10. Terms of Restriction on the Use of Land numbered 10 in the plan:**Driveway Crossings**

No driveway may be constructed where the kerb and gutter driveway crossing is within 6m of a kerb and gutter tangent point.

Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 10 in the plan: Liverpool City Council.

11. Terms of Restriction on the Use of Land numbered 11 in the plan:**Developer Restrictions**

No fence shall be erected on a burdened lot to divide it from any adjoining land owned by XGP Development Pty Limited without the consent of XGP Development Pty Limited. Such consent shall not be withheld if such fence is erected without expense to XGP Development Pty Limited.

Name of Person or Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 11 in the plan: XGP Development Pty Limited for such period as it is the registered proprietor of land in the Plan and thereafter the owners of the lot benefited.

Plan: DP STAGE 1**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated****Seals & Signatures****Execution by Epsilon Distribution Ministerial Holding Corporation
(ABN 59 253 130 878)**

I certify that the attorney signed this instrument in my presence.

Signed by the attorney named below who signed this instrument pursuant to the power of attorney specified for **Endeavour Energy Network Asset Partnership (ABN 30 586 412 717)** on behalf of **Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)** pursuant to section 36 of the *Electricity Network Assets (Authorised Transactions) Act 2015* (NSW)

Signature of witness:

Signature of attorney:

Name of witness:

Name and position of attorney:
Simon Lawton
Strategic Property ManagerAddress of witness:
c/- Endeavour Energy
51 Huntingwood Drive
Huntingwood NSW 2148Signing on behalf of:
Endeavour Energy Network Asset
Partnership
ABN 30 586 412 717

Power of attorney: Book 4768

No 870

EE reference: URS22899

Date: _____

Plan: DP STAGE 1

**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated**

Seals & Signatures

Execution by Liverpool City Council

Signed by
As an authorised delegate of Liverpool City Council
pursuant to S.377 of the Local Government Act 1993
and I hereby state that I have no notice of
revocation of such delegation.

.....
Signature of Delegate

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

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

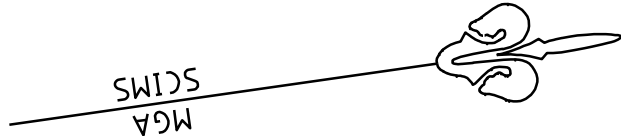
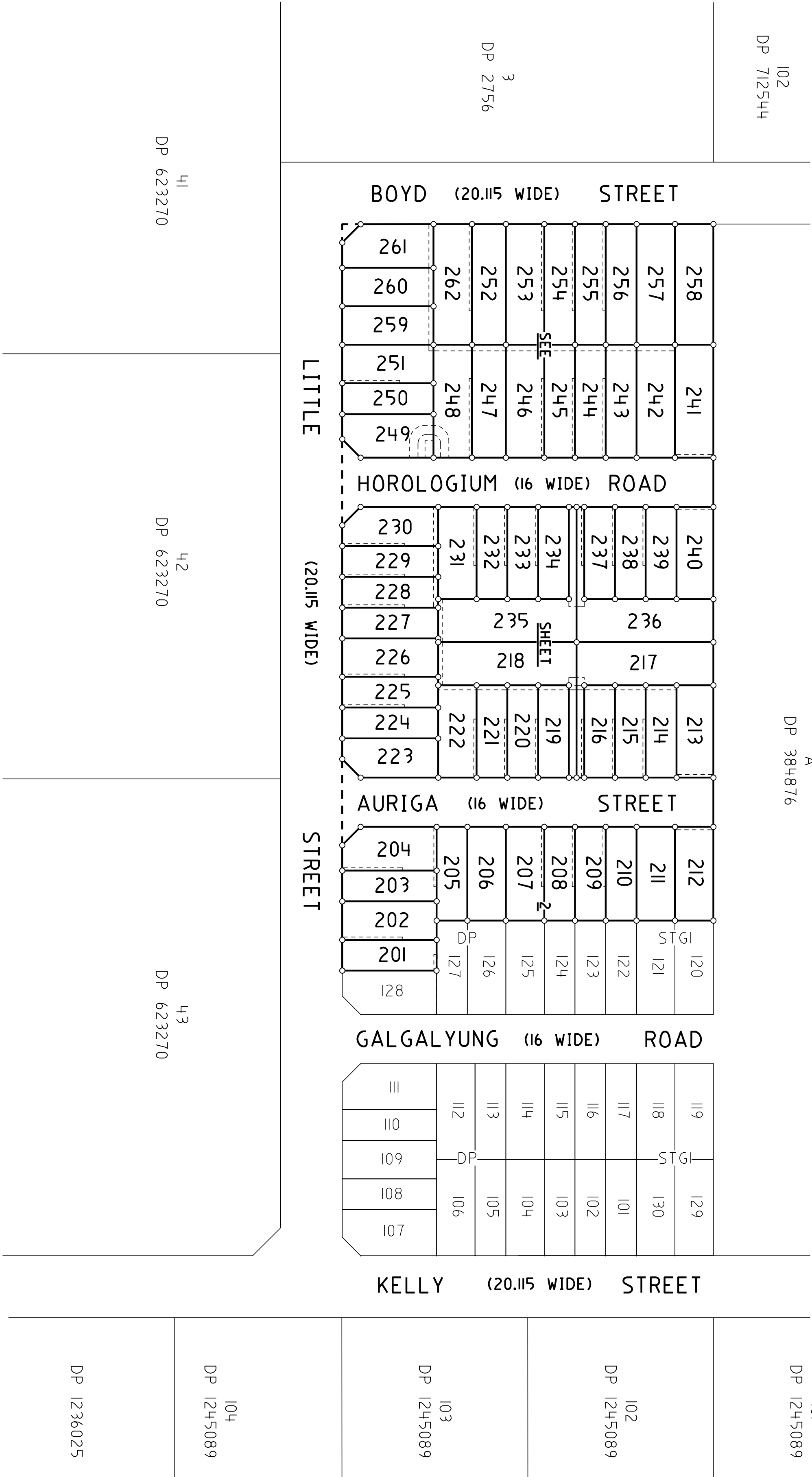
Plan: DP STAGE 1

**Plan of Subdivision of Lots A and B in DP 391036
Covered by Subdivision Certificate No.
Dated**

Seals & Signatures

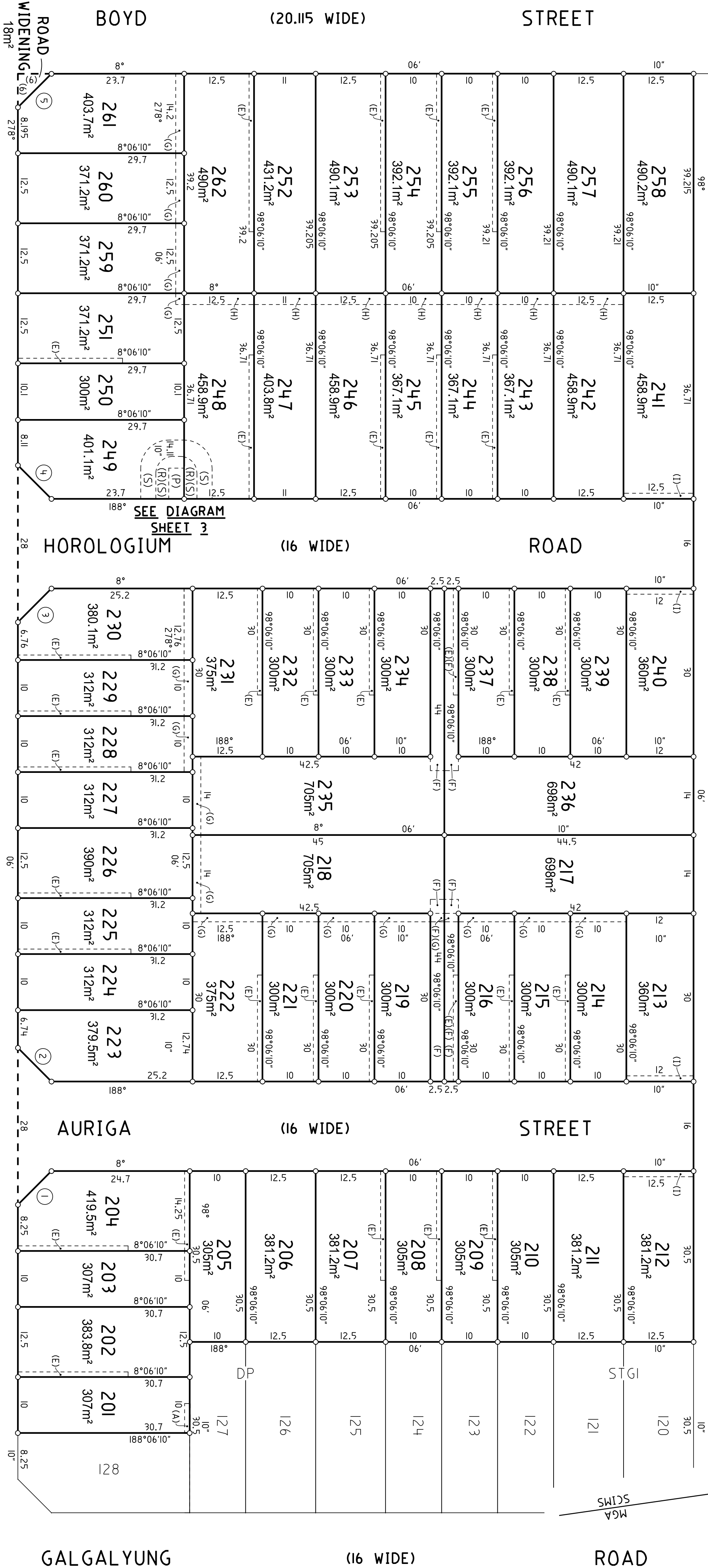
Execution by

- NOTES:
1. DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY
 2. OTHER COVENANTS AND RESTRICTIONS MAY APPLY SUBJECT TO FINAL APPROVAL BY COUNCIL.
 3. EASEMENT WIDTHS MAY VARY SUBJECT TO FINAL WORKS AS CONSTRUCTED SURVEY.



- NOTES:**
1. DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY
 2. OTHER COVENANTS AND RESTRICTIONS MAY APPLY SUBJECT TO FINAL APPROVAL BY COUNCIL.
 3. EASEMENT WIDTHS MAY VARY SUBJECT TO FINAL WORKS AS CONSTRUCTED SURVEY.

A
DP 384876



LITTLE

(20.115 WIDE)

STREET

三

DP 623270

42

DP 623270

4

DP 623270

- (a) EASEMENT FOR ACCESS, MAINTENANCE AND CONSTRUCTION 0.9' WIDE (OP STAGE)
- (b) EASEMENT FOR ACCESS, MAINTENANCE AND CONSTRUCTION 0.9' WIDE
- (c) EASEMENT FOR ACCESS AND SERVICES 2.5' WIDE
- (d) EASEMENT FOR DRAINAGE OF WATER 1.5' WIDE
- (e) EASEMENT FOR DRAINAGE OF WATER 1.5' WIDE
- (f) PUBLIC ACCESS EASEMENT 1' WIDE
- (g) EASEMENT FOR PADMOUNT SUBSTATION 2.75' WIDE
- (h) EASEMENT FOR PADMOUNT SUBSTATION 2.75' WIDE

SURVEYOR DANIEL JAMES HANNIGAN
Name: CALIBRE CONSULTING (NSW) P/L
T: (02) 8808 5000
Date of Survey:
Reference: 17-002972 STG2

PLAN OF SUBDIVISION OF LOT 131 IN DP STAGE 1

L.G.A.: LIVERPOOL

Registered

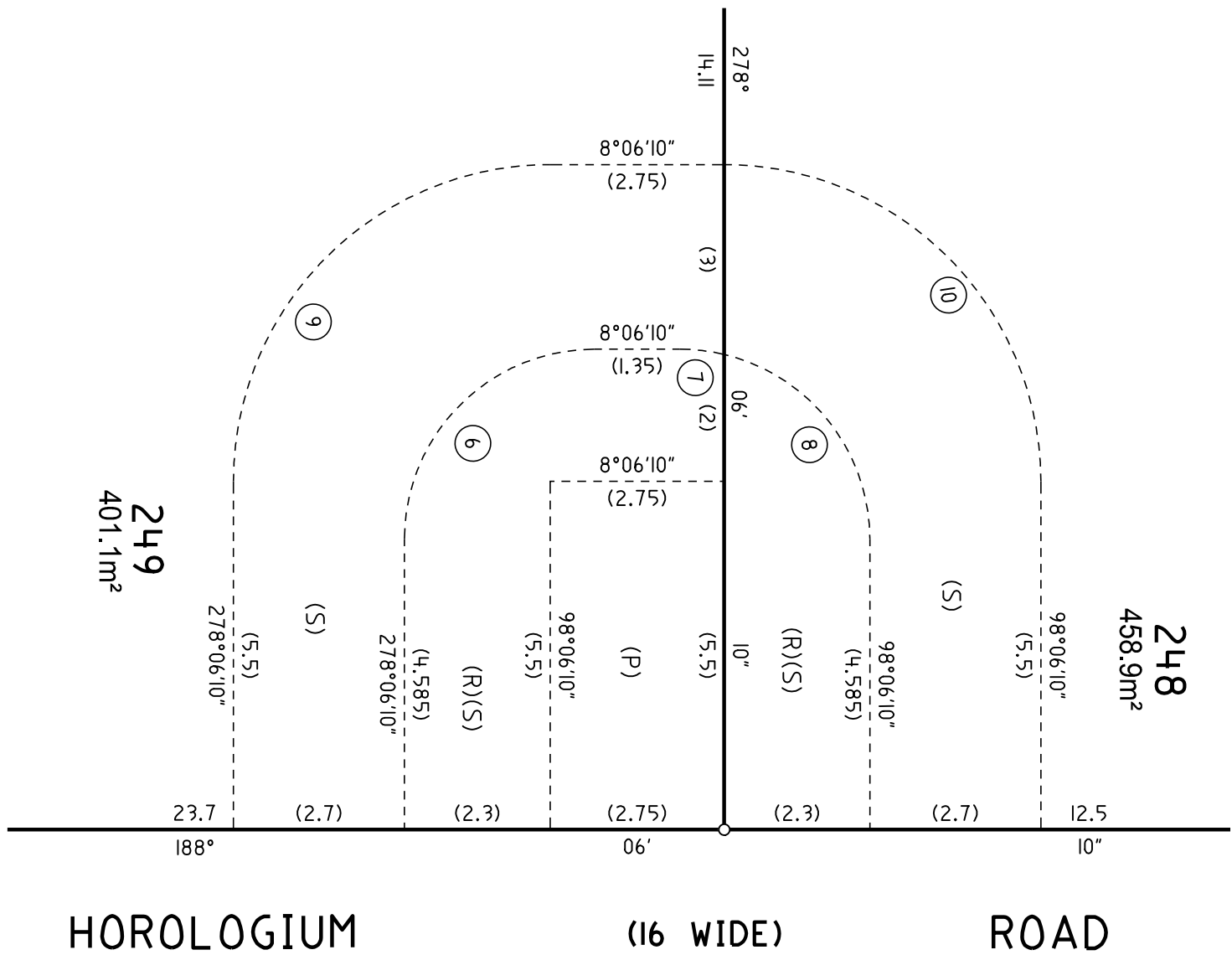
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DP ??????

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07.08.2020, By: peng wu

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SCHEDULE OF SHORT & CURVED BOUNDARIES

No.	BEARING	CHORD	ARC	RADIUS
1	32°06'10"	8.465		
2	23°06'10"	8.465		
3	32°06'10"	8.465		
4	23°06'10"	8.465		
5	14°05'55"	8.465		
6	32°06'10"	(4.245)	(4.71)	3
7	14°50'55"	(0.705)	(0.705)	3
8	59°50'55"	(3.715)	(4.005)	3
9	32°06'10"	(7.07)	(7.855)	5
10	53°06'10"	(7.07)	(7.855)	5

- (G) EASEMENT FOR DRAINAGE OF WATER 1.5 WIDE
(P) EASEMENT FOR PADMOUNT SUBSTATION 2.75 WIDE
(R) RESTRICTION ON THE USE OF LAND (VARIABLE WIDTH
(S) RESTRICTION ON THE USE OF LAND (VARIABLE WIDTH

SURVEYOR Name: DANIEL JAMES HANNIGAN CALBRE CONSULTING (NSW) P/L T: (02) 8808 5000 Date of Survey: Reference: 17-002972 STG2	PLAN OF SUBDIVISION OF LOT 131 IN DP STAGE 1	L.G.A.: LIVERPOOL Locality: AUSTRAL Reduction Ratio: 1:500 Lengths are in metres	Registered DRAFT	DP ??????
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- NOTES:**
1. DIMENSIONS AND AREAS ARE SUBJECT TO FINAL SURVEY.
 2. OTHER COVENANTS AND RESTRICTIONS MAY APPLY SUBJECT TO FINAL APPROVAL BY COUNCIL.
 3. EASEMENT WIDTHS MAY VARY SUBJECT TO FINAL WORKS AS CONSTRUCTED SURVEY.

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 Section 88B of the Conveyancing Act 1919.

LENGTHS ARE IN METRES

Sheet 1 of 17 Sheets

Plan: DP STAGE 2

**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated**

Full name and address of the owner
of the land:

Lot 131 in DP STAGE 1

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1.	Easement for Access, Maintenance and Construction 0.9 wide (E)	202 203 204 207 208 209 215 216 217 220 221 222 225 226 228 229 230	201 205 203 and 205 208 209 210 214 215 216 219 220 221 224 225 227 228 229

Plan: DP STAGE 2

Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated

PART 1 (Creation)
(Continued)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1.	Easement for Access, Maintenance and Construction 0.9 wide (E)	231 232 233 236 237 238 244 245 246 248 251 253 254 255 262	232 233 234 237 238 239 243 244 245 247 250 254 255 256 252
2.	Easement for Access and Services 2.5 wide (F)	217 218 235 236	218 217 236 235
3.	Easement for Drainage of Water 1.5 wide (G)	230 229	213 – 222 Inclusive, 228 – 230 Inclusive and 235 213 – 222 Inclusive, 228 and 235

Plan: DP STAGE 2

Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated

PART 1 (Creation)
(Continued)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
3.	Easement for Drainage of Water 1.5 wide (G)	228	213 – 222 Inclusive and 235
		235	213 – 222 Inclusive
		218	213 – 217 Inclusive and 219 – 222 Inclusive
		222	213 – 221 Inclusive
		221	213 – 220 Inclusive
		220	213 – 219 Inclusive
		219	213 – 218 Inclusive
		217	213 – 216 Inclusive
		216	213, 214 and 215
		215	213 and 214
		214	213
		261	241 – 248 Inclusive, 251, 259 and 260
		260	241 – 248 Inclusive, 251, and 259
		259	241 – 248 Inclusive and 251
		251	241 – 248 Inclusive
4.	Easement for Drainage of Water 2 wide (H)	248	241 – 247 Inclusive
		247	241 – 246 Inclusive
		246	241 – 245 Inclusive
		245	241 – 244 Inclusive
		244	241, 242 and 243

Plan: DP STAGE 2

Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated

PART 1 (Creation)
(Continued)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
4.	Easement for Drainage of Water 2 wide (H)	243 242	241 and 242 241
5.	Public Access Easement 1 wide (I)	212 213 240 241	Liverpool City Council
6.	Easement for Padmount Substation 2.75 wide (P)	249	Epsilon Distribution Ministerial Holding Corporation
7.	Restriction on the Use of Land	Part 248 designated (R) Part 249 designated (R)	Epsilon Distribution Ministerial Holding Corporation
8.	Restriction on the Use of Land	Part 248 designated (S) Part 249 designated (S)	Epsilon Distribution Ministerial Holding Corporation
9.	Restriction on the Use of Land (On site Detention Basin)	259 260 261 262	Liverpool City Council

Plan: DP STAGE 2

Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated

PART 1 (Creation)
(Continued)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lots(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
10.	Positive Covenant (On site Detention Basin)	259 260 261 262	Liverpool City Council
11.	Restriction on the Use of Land (Driveway Crossings)	204 223 230 249	Liverpool City Council
12.	Restriction on the Use of Land (Battleaxe lot restrictions)	217 218 235 236 261	Liverpool City Council
13.	Restriction on the Use of Land (Developer Restrictions)	Each Lot	Every other Lot

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)****1. Terms of Easement for Access, Maintenance and Construction numbered 1 in the plan:**

- 1.1 In this Easement for Access, Maintenance and Construction:
'Easement Site' means that area of the lot burdened shown on the plan as affected by 'Easement for Access, Maintenance and Construction 0.9 wide'.
- 1.2 The grant of this easement is made subject to the existence of, and the right of the owner of the lot burdened to construct guttering from the structure on the lot burdened, that overhangs the site of the easement.
- 1.3 The grant of this easement is made subject to the right of the owner of the lot burdened to carry out repairs and maintenance or improvements to any landscaping within the site of the easement including installing a security gate at the entrance to the site of the easement from the front of the building structure on the lot burdened.
- 1.4 Subject to Clause 1.5, the owner of the lot benefited may:
- a) Install and maintain in the wall adjacent to the Easement Site one or more cavity weephole drainage points and drain water from the weephole, but only within the easement site.
 - b) Install and maintain on the wall adjacent to the Easement Site guttering that overhangs the Easement Site, and drain water but only within the guttering.
 - c) With prior reasonable notice given to the owner of the lot burdened, use the Easement Site for the purpose of carrying out necessary work (including construction, maintenance and repair) on:
 - (i) The lot benefited; and
 - (ii) Any structure belonging to the owner of the lot benefited, which cannot otherwise be reasonably carried out without accessing the Lot burdened; and
 - d) Do anything reasonably necessary for that purpose, including:
 - (i) Entering onto the lot burdened;
 - (ii) Taking anything onto the lot burdened; and
 - (iii) Carrying out necessary works.
- 1.5 The rights under this Easement for Access, Maintenance and Construction are:
- a) Limited to the extent necessary to permit the owner of the lot benefited to construct, maintain and repair any part of:
 - (i) The lot benefited; and
 - (ii) Any structure belonging to the owner of the lot benefited.
- 1.6 In exercising the rights under this clause, the owner of the lot benefited must:
- a) Ensure all work on the lot benefited is done properly and carried out as quickly as practicable;

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

- b) Cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened;
- c) Cause as little damage as is practicable to the lot burdened and any improvement on it;
- d) Restore the lot burdened as nearly as is practicable to its former condition; and
- e) Make good any collateral damage.

The owner of the lot burdened and the owner of the lot benefited acknowledge that it is not the responsibility of Liverpool City Council to determine any dispute in relation to the Easement for Access, Maintenance and Construction and any dispute is a civil matter to be resolved with the relevant parties.

Name of Authority required to consent to release, vary or modify the Easement for Access, Maintenance and Construction numbered 1 in the plan: Liverpool City Council.

2. Terms of Easement for Access and Services numbered 2 in the plan:

The terms of the Easement for Access and Services incorporates:

- a) the Terms of Right of Access as prescribed in Part 14 of Schedule 8 of the Conveyancing Act 1919 and
- b) the terms of Easement for Services as prescribed in Part 11 of Schedule 8 of the Conveyancing Act 1919.

Name of Authority required to consent to release, vary or modify the Easement for Access and Services numbered 2 in the plan: Liverpool City Council.

3. Terms of Easement for Drainage of Water numbered 3 in the plan:

The Terms of the Easement for Drainage of Water are as prescribed in Part 8 of Schedule 8 of the Conveyancing Act 1919.

Name of Authority required to consent to release, vary or modify the Easement for Drainage of Water numbered 3 in the plan: Liverpool City Council.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)****4. Terms of Easement for Drainage of Water numbered 4 in the plan:**

The Terms of the Easement for Drainage of Water are as prescribed in Part 8 of Schedule 8 of the Conveyancing Act 1919.

Name of Authority required to consent to release, vary or modify the Easement for Drainage of Water numbered 4 in the plan: Liverpool City Council.

5. Terms of Easement for Public Access numbered 5 in the plan:

Terms of right of access as per Part 11 Schedule 4A of the Conveyancing Act 1919 as amended together with the following addition:

- a) The easement is a temporary extension of the adjoining public road and will function as a public road in accordance with the definition of "public road" included in the Roads Act 1993 for the purposes of providing access across the easement site.
- b) The easement site is made accessible to the public.
- c) The easement is a temporary right which must be removed upon the extension of the adjoining public road to which it relates.

Name of Authority required to consent to release, vary or modify the Easement for Public Access numbered 5 in the plan: Liverpool City Council.

6. Terms of Easement for Padmount Substation numbered 6 in the plan:

The terms set out in Memorandum No AK104621 registered at Land & Property Information NSW are incorporated into this document, subject to changing "Endeavour Energy" to "Epsilon Distribution Ministerial Holding Corporation".

Name of Authority required to consent to release, vary or modify the Easement for Padmount Substation numbered six (6) in the plan: Epsilon Distribution Ministerial Holding Corporation. The cost and expense of any such release, variation or modification shall be borne by the persons or corporation requesting the same in all respects.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)****7. Terms of Restriction on the Use of Land numbered 7 in the plan:****1.0 Definitions**

- 1.1 **120/120/120 fire rating** and **60/60/60 fire rating** means the fire resistance level of a building expressed as a grading period in minutes for structural adequacy / integrity failure / insulation failure calculated in accordance with Australian Standard 1530.
- 1.2 **building** means a substantial structure with a roof and walls and includes any projections from the external walls.
- 1.3 **erect** includes construct, install, build and maintain.
- 1.4 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

2.0 No building shall be erected or permitted to remain within the restriction site unless:

- 2.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating, and
- 2.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating, and
- 2.3 the owner provides the authority benefited with an engineer's certificate to this effect.

3.0 The fire ratings mentioned in clause 2 must be achieved without the use of fire fighting systems such as automatic sprinklers.**4.0 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System**

- 4.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation's distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation's distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation's distribution system from Epsilon Distribution Ministerial Holding Corporation.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

- 4.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

8. Terms of Restriction on the Use of Land numbered 8 in the plan:**1.0 Definitions**

- 1.1 **erect** includes construct, install, build and maintain.

- 1.2 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

- 2.0 No swimming pool or spa shall be erected or permitted to remain within the restriction site.

3.0 Lessee of Epsilon Distribution Ministerial Holding Corporation Distribution System

- 3.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation distribution system from Epsilon Distribution Ministerial Holding Corporation.

- 3.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

Name of Authority empowered to release, vary or modify the Restrictions numbered seven (7) and eight (8) in the plan: Epsilon Distribution Ministerial Holding Corporation. The cost and expense of any such release, variation or modification shall be borne by the persons or corporation requesting the same in all respects.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)****9. Terms of Restriction on the Use of Land numbered 9 in the plan:****On-Site Detention Basin**

The Registered Proprietors(s) covenant as follows with the Authority benefited in respect to the System that they will not, without the prior and express written consent of the Authority benefited:

- a) Do any act, matter or thing which would prevent the System from operating in a safe and efficient manner.
- b) Make or permit or suffer the making of any alterations or additions to the System.
- c) Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the System.

No fencing may be erected on the road frontage of the lot(s) burdened unless in accordance with the engineering plans for the System.

Any fencing erected on the lot burdened must not be removed, damaged, destroyed or permitted to fall into disrepair.

No fencing may be erected on the lot(s) burdened unless

This restriction shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Conveyancing Act 1919.

For the purpose of this restriction, "the System" means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the lot burdened as required by Development Consent No. 430/2018 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. _____ dated _____ including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage.

Liverpool City Council will have no objection to the release of this restriction upon the relevant district downstream basins or major trunk drainage system being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary stormwater quality control devices and outlet works within the Lot hereby burdened.

Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 8 in the plan: Liverpool City Council.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)****10. Terms of Positive Covenant numbered 10 in the plan:****On-Site Detention Basin**

10.1 The Registered Proprietors(s) covenant as follows with the Authority benefited in respect to System, that they will:

- a) Keep the System clean and free from silt, rubbish and debris.
- b) Maintain and repair, at the sole expense of the registered proprietor(s), that part of the System contained within the registered proprietor's own lot, so that it functions in a safe and efficient manner, in accordance with the manufacturer's recommended requirements.
- c) For the purpose of ensuring observance of this covenant, permit Liverpool City Council or its authorised agents (hereinafter referred to as "the Council") from time to time and upon giving reasonable notice (but at any time without notice in the case of an emergency) to enter the land and inspect the condition of the System and the state of construction, maintenance or repair of the System, for compliance with the requirements of this covenant.
- d) Notify Council in writing after each programmed maintenance inspection.
- e) Comply with the terms of any written notice issued by the Council to attend to any matters and carry out such work within the time stated in the notice, to ensure the proper and efficient performance of the System and to that extent Section 88F(2)(a) of the Conveyancing Act 1919 (hereinafter referred to as "the Act") is hereby agreed to be amended accordingly.
- f) Maintain any fencing on the lot burdened.

10.2 Pursuant to Section 88F(3) of the Act the Council shall have the following additional powers pursuant to this covenant:

- a) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council may enter the Lot burdened with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the aforementioned notice issued by Council.
- b) The Council may recover from the registered proprietor in a court of competent jurisdiction:
 - I. Any expense reasonably incurred by Council in exercising its powers in clause 10.2 a) above. Such expense shall include reasonable wages for employees engaged in effecting, supervising and administering the said work, together with costs, reasonable estimated by Council, for the use of materials, machinery, tools and equipment used in conjunction with the said work.
 - II. Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs, charges and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****PART 2 (Terms)
(Continued)**

10.3 This covenant shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Act.

For the purpose of this restriction, "the System" means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the lot burdened as required by Development Consent No. 430/2018 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. _____ dated _____ including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage.

Liverpool City Council will have no objection to the release of this restriction upon the relevant district downstream basins or major trunk drainage system being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary stormwater quality control devices and outlet works within the Lot hereby burdened.

Name of Authority empowered to release, vary or modify the Positive Covenant numbered 10 in the plan: Liverpool City Council.

11. Terms of Restriction on the Use of Land numbered 11 in the plan:**Driveway Crossings**

No driveway may be constructed where the kerb and gutter driveway crossing is within 6m of a kerb and gutter tangent point.

Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 11 in the plan: Liverpool City Council.

12. Terms of Restriction on the Use of Land numbered 12 in the plan:

No dwelling (including any secondary dwelling) may be constructed on the lot burdened unless the dwelling is of detached single storey construction.
No subdivision of the burdened lot is permitted where such subdivision creates any additional lot(s).

Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 12 in the plan: Liverpool City Council.

Plan: DP STAGE 2

**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated**

**PART 2 (Terms)
(Continued)**

13. Terms of Restriction on the Use of Land numbered 13 in the plan:

Developer Restrictions

No fence shall be erected on a burdened lot to divide it from any adjoining land owned by XGP Development Pty Limited without the consent of XGP Development Pty Limited. Such consent shall not be withheld if such fence is erected without expense to XGP Development Pty Limited.

Name of Person or Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 13 in the plan: XGP Development Pty Limited for such period as it is the registered proprietor of land in the Plan and thereafter the owners of the lot benefited.

Plan: DP STAGE 2**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated****Seals & Signatures****Execution by Epsilon Distribution Ministerial Holding Corporation
(ABN 59 253 130 878)**

I certify that the attorney signed this instrument in my presence.

Signed by the attorney named below who signed this instrument pursuant to the power of attorney specified for **Endeavour Energy Network Asset Partnership (ABN 30 586 412 717)** on behalf of **Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)** pursuant to section 36 of the *Electricity Network Assets (Authorised Transactions) Act 2015* (NSW)

Signature of witness:

Signature of attorney:

Name of witness:

Name and position of attorney:
Simon Lawton
Strategic Property ManagerAddress of witness:
c/- Endeavour Energy
51 Huntingwood Drive
Huntingwood NSW 2148Signing on behalf of:
Endeavour Energy Network Asset
Partnership
ABN 30 586 412 717

Power of attorney: Book 4768

No 870

EE reference:

Date: _____

Plan: DP STAGE 2

**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated**

Seals & Signatures

Execution by Liverpool City Council

Signed by
As an authorised delegate of Liverpool City Council
pursuant to S.377 of the Local Government Act 1993
and I hereby state that I have no notice of
revocation of such delegation.

.....
Signature of Delegate

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

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

Plan: DP STAGE 2

**Plan of Subdivision of Lot 131 in DP STAGE 1
Covered by Subdivision Certificate No.
Dated**

Seals & Signatures

Execution by



FOLIO: A/391036

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
30/7/2020	5:51 PM	3	27/5/2019

LAND

LOT A IN DEPOSITED PLAN 391036

LOCAL GOVERNMENT AREA LIVERPOOL

PARISH OF CABRAMATTA COUNTY OF CUMBERLAND

TITLE DIAGRAM DP391036

FIRST SCHEDULE

NICHOLAS PACE

JOSEPHINE PACE

AS JOINT TENANTS

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- * 2 AM868978 CAVEAT BY XGP DEVELOPMENT PTY LTD

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



FOLIO: B/391036

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
30/7/2020	5:51 PM	3	27/5/2019

LAND

LOT B IN DEPOSITED PLAN 391036

LOCAL GOVERNMENT AREA LIVERPOOL

PARISH OF CABRAMATTA COUNTY OF CUMBERLAND

TITLE DIAGRAM DP391036

FIRST SCHEDULE

NICHOLAS PACE

JOSEPHINE PACE

AS JOINT TENANTS

(T Q834621)

SECOND SCHEDULE (2 NOTIFICATIONS)

1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)

* 2 AM868978 CAVEAT BY XGP DEVELOPMENT PTY LTD

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

CONVERSION TABLE ADDED BY
DEPARTMENT OF LANDS

LINKS	METRES
100	20.117
300	60.350
1667	395.347
AC RD P	HA
5 - -	2.023

DP 391036

F.P. 274088

F.P. 391036

4274088

Plan from W.C. (see completion)
Department of Lands

PLAN

of subdivision of the land in Certificate of Title No. 677 Rd. 228,
Parish of Cabramatta County of Cumberland.
Scale 300 links = 100 mch.

Misc. Plan of Subn. (R.P.)
Regd. No. 91036

This is the plan marked "A" referred to in Transfer from Walter Tregon to himself & his wife, viz. Mrs. Lilla Kelly.
Dated 30th June 1948
Signatures of parties to be made in this margin.

I certify that this plan has been compiled from the information in
D.P. 2756 and is correct.

1954
H. J. Kelly

H. J. Kelly
Surveyor General, New South Wales
25th May 1954

I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made on a permanent record of a document in my custody this 6th day of April, 1979.

1

PLANNING CERTIFICATE UNDER SECTION 10.7
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Ref.: BW CHICKEN FARM:94755
Ppty: 14167

Cert. No.: 671

Applicant:
INFOTRACK PTY LIMITED
GPO BOX 4029
SYDNEY NSW 2001

Receipt No.: 4633259
Receipt Amt.: 133.00
Date: 30-Jul-2020

The information in this certificate is provided pursuant to Section 10.7(2)&(5) of the Environmental Planning and Assessment Act (EP&A Act) 1979, as prescribed by Schedule 4 of the Environmental Planning and Assessment Regulation (EP&A Regulation) 2000. The information has been extracted from Council's records, as they existed at the date listed on the certificate. Please note that the accuracy of the information contained within the certificate may change after the date of this certificate due to changes in Legislation, planning controls or the environment of the land.

The information in this certificate is applicable to the land described below.

Legal Description: LOT A DP 391036

Street Address: 37 KELLY STREET, AUSTRAL NSW 2179

Note: Items marked with an asterisk () may be reliant upon information transmitted to Council by a third party public authority. The accuracy of this information cannot be verified by Council and may be out-of-date. If such information is vital for the proposed land use or development, applicants should instead verify the information with the appropriate authority.*

Note: Commonly Used Abbreviations:

LEP: Local Environmental Plan
DCP: Development Control Plan
SEPP: State Environmental Planning Policy
EPI: Environmental Planning Instrument

1. Names of relevant planning instruments and DCPs

(a) The name of each EPI that applies to the carrying out of development on the land is/are listed below:

LEPs:

Not Applicable

SEPPs*:

SEPP No. 33 – Hazardous and Offensive Development
SEPP No. 50 – Canal Estate Development
SEPP No. 55 – Remediation of Land
SEPP No. 62 – Sustainable Aquaculture
SEPP No. 65 – Design Quality of Residential Flat Development
SEPP (Building Sustainability Index: BASIX) 2004
SEPP No. 70 – Affordable Housing (Revised Schemes)
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Miscellaneous Consent Provisions) 2007
SEPP (State and Regional Development) 2011
SEPP (Education Establishments and Child Care Facilities) 2017
SEPP (Vegetation in Non-Rural Areas) 2017
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Sydney Region Growth Centres) 2006
SEPP (Affordable Rental Housing) 2009
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP No 19 – Bushland in Urban Areas
SEPP No 21 – Caravan Parks
SEPP No 30 – Intensive Agriculture
SEPP Koala Habitat Protection
SEPP No 64 – Advertising and Signage

Deemed SEPPs*:

SREP No 20 – Hawkesbury – Nepean River (No. 2 – 1997)

(b) The name of each draft EPI, or Planning Proposal (which has been subject to community consultation).

Draft LEPs:

N/A

Draft SEPPs*:

Draft SEPP (Competition) 2010

- (c) The name of each DCP that applies to the carrying out of development on the land.

Liverpool Growth Centre Precincts DCP

2. Zoning and land use under relevant LEPs and /or SEPPs

This section contains information required under subclauses 2 and 2A of Schedule 4 of the EP&A Regulation 2000. Subclause 2 of the regulation requires Council to provide information with respect to zoning and land-use in areas zoned by, or proposed to be zoned by, a LEP. Subclause 2A of Schedule 4 of the regulation requires Council to provide information with respect to zoning and land-use in areas which are zoned by, or proposed to be zoned by, the SEPP (Sydney Region Growth Centres) 2006. The land use and zoning information under any EPI applying to the land is given below.

- (a) Name of zone, and the EPI from which the land zoning information is derived.

R2 Low Density Residential - SEPP (Sydney Region Growth Centres) 2006

- (b) The purposes for which development may be carried out within the zone without the need for development consent

Home-based child care; Home occupations

- (c) The purposes for which development may not be carried out within the zone except with development consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Child care centres; Community facilities; Drainage; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Home industries; Multi dwelling housing; Neighbourhood shops; Places of public worship; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Studio dwellings

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

Any development not specified in item (b) or (c)

- (e) If a dwelling house is a permitted use, are there any principal development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house?

No

(f) Does the land include or comprise critical habitat?

No

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

No

(h) Is there an item of environmental heritage (however described) situated on the land

No

3. Complying development

The information below outlines whether complying development is permitted on the land as per the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1) (c3) and 1.19 SEPP of the (Exempt and Complying Development Codes) 2008 only. The table does not specify whether any code applies to the land; applicants should read the full extent of the code with their building certifier, solicitor, or other professional to determine whether any code applies to the land.

The first column identifies the code(s). The second column describes the extent of the land in which exempt and complying development is permitted, as per the clauses above, for the code(s) given to the immediate left. The third column indicates the reason as to why exempt and complying development is prohibited on some or all of the land, and will be blank if such development is permitted on all of the land.

Code	Extent of the land for which development is permitted:	The reason(s) as to why development is prohibited:
Housing Code, Rural Housing Code, Greenfield Housing Code and Low Rise Medium Density Housing Code	All	
Commercial and Industrial (New Buildings and Additions) Code	All	

Code	Extent of the land for which development is permitted:	The reason(s) as to why development is prohibited:
General Development Code, Container Recycling Facilities Code, Fire Safety Code, Housing Alterations Code, Commercial and Industrial Alterations Code, Subdivisions Code, and Demolition Code	All	

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

Nil

4. Coastal protection*

Has the Department of Finance, Services and Innovation notified Council of the land being affected by 38 or 39 of the Coastal Protection Act, 1979?

No

4A. Certain information relating to beaches and coasts*

(a) Has an order has been made under Part 4D of the Coastal Protection Act 1979 on the land (or on public land adjacent to that land)?

No

(b) Has Council been notified under section 55X of the Coastal Protection Act 1979 that temporary coastal protection works have been placed on the land (or on public land adjacent to that land), and if works have been so placed, is council is satisfied that the works have been removed and the land restored in accordance with that Act?

Not applicable

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

Has the owner (or any previous owner) of the land consented, in writing, that the land is 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)?

No

5. Mine subsidence*

Is the land a proclaimed to mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961?

No

6. Road widening and road realignment

Is the land is affected by any road widening or road realignment under:

(a) Division 2 of Part 3 of the Roads Act 1993?*

No

(b) An EPI?

No

(c) A resolution of the council?

No

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

The following table lists hazard/risk policies that have been adopted by Council (or prepared by another public authority and subsequently adopted by Council). The right-most column indicates whether the land is subject to those policies.

Hazard/Risk	Adopted Policy	Does this hazard/risk policy apply to the land?
Landslip hazard	Nil	No
Bushfire hazard	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	No
	Edmondson Park South DCP 2012	No
	Planning for Bushfire Protection (Rural Fire Services, 2006)*	No
	Pleasure Point Bushfire Management Plan	No
Tidal inundation	Nil	No

Hazard/Risk	Adopted Policy	Does this hazard/risk policy apply to the land?
Subsidence	Nil	No
Acid Sulphate Soils	Liverpool LEP 2008	No
	Liverpool DCP 2008	No
Potentially Contaminated Land	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	Yes , see Figure 2-8 of Schedule 1 of the Liverpool Growth Centres Precinct DCP
Potentially Saline Soils	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	Yes , see Figure 2-4 of Schedule 1 of the Liverpool Growth Centres Precinct DCP

Note: Land for which a policy applies does not confirm that the land is affected by that hazard/risk. For example, all land for which the Liverpool DCP applies is subject to controls relating to contaminated land, as this policy contains triggers and procedures for identifying potential contamination. Applicants are encouraged to review the relevant policy, and other sections of this certificate, to determine what effect, if any, the policy may have on the land.

7A. Flood related development controls information

- (a) For the purpose of residential accommodation (excluding group homes or seniors housing), is the land, or part of the land, within the flood planning area and subject to flood planning controls?

No

For details of these controls, please refer to the flooding section of the relevant DCP(s) as specified in Section 1(c) of this certificate.

- (b) Is development on that land, or part of the land, for any other purpose subject to flood related development controls?

No

For details of these controls, please refer to the flooding section of the relevant DCP(s) as specified in Section 1(c) of this certificate.

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

8. Land reserved for acquisition

Does a LEP, draft LEP, SEPP or draft SEPP identify the acquisition of the land, or part of the land, by a public authority, as referred to in section 3.15 of the Act?

No

9. Contribution Plans

Liverpool Contributions Plan 2014 - Austral and Leppington North Precincts

9A. Biodiversity certified land*

Is the land, or part of the land, biodiversity certified land (within the meaning of Part 8 of the Biodiversity Conservation Act 2016)?

Yes, part/all of the land is bio-diversity certified land

10. Biobanking agreements*

Is the land subject to a bio-banking agreement under Part 6 of the Biodiversity Conservation Act 2016, as notified to Council by the Chief Executive of the Office of Environment and Heritage?

No

10A. Native vegetation clearing set asides

Does the land contain a set aside area under section 60ZC of the Local Land Services Act 2013?

No, Liverpool is excluded from section 60ZC of the Local Land Services Act 2013

11. Bushfire prone land

Is the land or part of the land, bushfire prone land as defined by the EP&A Act 1979?

No

12. Property vegetation plans*

Is Council aware of the land being subject to a Property Vegetation Plan under the Native Vegetation Act 2003?

No, Liverpool is excluded from the operation of the Native Vegetation Act 2003

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

Does an order, made under the Trees (Disputes Between Neighbours) Act 2006 in relation to carrying out of work in relation to a tree on the land, apply?

No, Council has not been notified of an order

14. Directions under Part 3A*

Is there a direction (made by the Minister) that a provision of an EPI in relation to a development does not have effect?

No

15. Site compatibility certificates and conditions for seniors housing*

(a) Is there is a current site compatibility certificate (seniors housing), in respect of proposed development on the land?

No, Council has not been notified of an order.

16. Site compatibility certificates for infrastructure*

(a) Is there is a current site compatibility certificate (infrastructure), in respect of proposed development on the land?

No, Council has not been notified of an order

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

Is there is a current site compatibility certificate (Affordable housing), in respect of proposed development on the land?

No, Council has not been notified of an order.

18. Paper subdivision information*

Does any development plan adopted by a relevant authority (or proposed plan subject to a consent ballot) apply to the land? If so the date of the subdivision order that applies to the land.

No

19. Site verification certificates*

Does a current site verification certificate, apply to the land?

No, Council is not aware of a site verification certificate

20. Loose-fill asbestos insulation *

Is a dwelling on the land listed on the register (maintained by the NSW Department of Fair Trading) as containing loose-fill asbestos insulation?

No

Note: despite any listing on the register, any buildings constructed before 1980 may contain loose-fill asbestos insulation or other asbestos products.

21. Affected building notices and building product rectification orders*

Is there any affected building notice (as in Part 4 of the Building Products (Safety) Act 2017) of which the council is aware that is in force in respect of the land?

No

Is there any building product rectification order (as in the Building Products (Safety) Act 2017) of which the council is aware that is in force in respect of the land and has not been fully complied with?

No

Is there any notice of intention to make a building product rectification order (as in the Building Products (Safety) Act 2017) of which the council is aware has been given in respect of the land and is outstanding?

No

22. Contaminated land

Is the land:

(a) Significantly contaminated land within the meaning of that Act?

No

(b) Subject to a management order within the meaning of that Act?

No

(c) Subject of an approved voluntary management proposal within the meaning of that Act?

No

(d) Subject to an ongoing maintenance order within the meaning of that Act?

No

(e) Subject of a site audit statement within the meaning of that Act? *

No

Note: in this clause 'the Act' refers to the Contaminated Land Management Act 1997.

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO SECTION 10.7(5) OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT (EP&A ACT) 1979

1. Controlled access road

Does the land have a boundary to a controlled access road?

No

2. Sewer Access and On-site Management

On-Site Sewerage Management System/s

Council's records indicate that the property may not be connected to Sydney Water's sewerage system.

If the property is not connected and emits any waste water (sewerage) it must have an On-Site Sewerage Management System that is operating satisfactorily. It is the ongoing responsibility of the current owner(s) of the property (at any given time) to ensure that any On-Site Sewerage Management System continually operate in compliance with the relevant provisions of the Local Government Act 1993, and the Protection of the Environment Operations Act 1997 (including regulations made there under).

It is recommended that any applicant intending to purchase the property make enquires to ascertain if the property has an On-Site Sewerage Management System and engage the services of a suitably qualified wastewater engineer or plumber to assess the condition and compliance status of those system(s).

The Onsite Sewage System for this property is now an "Absorption System" but if it fails at any time the onsite system will have to be turned into a pump out system where the effluent will be required to be removed off site by tanker.

3. Other Information in Relation to Water Restrictions

Nil

4. Contaminated Land

Nil

5. Airport Noise Affectation*

Nil

6. Environmentally Significant Land

Nil

7. Archaeological Management Plan

Nil

8. Western Sydney Long Term Strategic Corridors*

Has the NSW Government identified that the land may be traversed by, or located near, a future transport corridor as identified in the Western Sydney Long Term Strategic Corridors project?

No

For more information on the Western Sydney Long Term Strategic Corridors, visit:
<https://www.transport.nsw.gov.au/corridors>

9. Fifteenth Avenue Smart Transit Project

Not Applicable

10. Offensive Odour and Rural Land Uses

The land is within the South-West Growth Centre. Despite the current zone, the land was formerly within a rural zoned area. In this area, there are certain agricultural activities that can cause noise, dust and odours that some people may find offensive. This should be taken into account when purchasing a dwelling or considering the erection of a dwelling house. The potential impact of any activities which may impact on nearby agricultural producers (such as pets, inadequate fencing, litter, poor weed control) should also be considered.



Eddie Jackson

Acting Chief Executive Officer
Liverpool City Council

For further information, please contact
CALL CENTRE – 1300 36 2170

PLANNING CERTIFICATE UNDER SECTION 10.7
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Ref.: BW CHICKEN FARM:94756
Ppty: 14166

Cert. No.: 672

Applicant:
INFOTRACK PTY LIMITED
GPO BOX 4029
SYDNEY NSW 2001

Receipt No.: 4633260
Receipt Amt.: 133.00
Date: 30-Jul-2020

The information in this certificate is provided pursuant to Section 10.7(2)&(5) of the Environmental Planning and Assessment Act (EP&A Act) 1979, as prescribed by Schedule 4 of the Environmental Planning and Assessment Regulation (EP&A Regulation) 2000. The information has been extracted from Council's records, as they existed at the date listed on the certificate. Please note that the accuracy of the information contained within the certificate may change after the date of this certificate due to changes in Legislation, planning controls or the environment of the land.

The information in this certificate is applicable to the land described below.

Legal Description: LOT B DP 391036

Street Address: 39 KELLY STREET, AUSTRAL NSW 2179

Note: Items marked with an asterisk () may be reliant upon information transmitted to Council by a third party public authority. The accuracy of this information cannot be verified by Council and may be out-of-date. If such information is vital for the proposed land use or development, applicants should instead verify the information with the appropriate authority.*

Note: Commonly Used Abbreviations:

LEP: Local Environmental Plan
DCP: Development Control Plan
SEPP: State Environmental Planning Policy
EPI: Environmental Planning Instrument

1. Names of relevant planning instruments and DCPs

(a) The name of each EPI that applies to the carrying out of development on the land is/are listed below:

LEPs:

Not Applicable

SEPPs*:

**SEPP No. 33 – Hazardous and Offensive Development
SEPP No. 50 – Canal Estate Development
SEPP No. 55 – Remediation of Land
SEPP No. 62 – Sustainable Aquaculture
SEPP No. 65 – Design Quality of Residential Flat Development
SEPP (Building Sustainability Index: BASIX) 2004
SEPP No. 70 – Affordable Housing (Revised Schemes)
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Miscellaneous Consent Provisions) 2007
SEPP (State and Regional Development) 2011
SEPP (Education Establishments and Child Care Facilities) 2017
SEPP (Vegetation in Non-Rural Areas) 2017
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Sydney Region Growth Centres) 2006
SEPP (Affordable Rental Housing) 2009
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP No 19 – Bushland in Urban Areas
SEPP No 21 – Caravan Parks
SEPP No 30 – Intensive Agriculture
SEPP Koala Habitat Protection
SEPP No 64 – Advertising and Signage**

Deemed SEPPs*:

SREP No 20 – Hawkesbury – Nepean River (No. 2 – 1997)

(b) The name of each draft EPI, or Planning Proposal (which has been subject to community consultation).

Draft LEPs:

N/A

Draft SEPPs*:

Draft SEPP (Competition) 2010

- (c) The name of each DCP that applies to the carrying out of development on the land.

Liverpool Growth Centre Precincts DCP

2. Zoning and land use under relevant LEPs and /or SEPPs

This section contains information required under subclauses 2 and 2A of Schedule 4 of the EP&A Regulation 2000. Subclause 2 of the regulation requires Council to provide information with respect to zoning and land-use in areas zoned by, or proposed to be zoned by, a LEP. Subclause 2A of Schedule 4 of the regulation requires Council to provide information with respect to zoning and land-use in areas which are zoned by, or proposed to be zoned by, the SEPP (Sydney Region Growth Centres) 2006. The land use and zoning information under any EPI applying to the land is given below.

- (a) Name of zone, and the EPI from which the land zoning information is derived.

R2 Low Density Residential - SEPP (Sydney Region Growth Centres) 2006

- (b) The purposes for which development may be carried out within the zone without the need for development consent

Home-based child care; Home occupations

- (c) The purposes for which development may not be carried out within the zone except with development consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Child care centres; Community facilities; Drainage; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Home industries; Multi dwelling housing; Neighbourhood shops; Places of public worship; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Studio dwellings

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

Any development not specified in item (b) or (c)

- (e) If a dwelling house is a permitted use, are there any principal development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house?

No

(f) Does the land include or comprise critical habitat?

No

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

No

(h) Is there an item of environmental heritage (however described) situated on the land

No

3. Complying development

The information below outlines whether complying development is permitted on the land as per the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1) (c3) and 1.19 SEPP of the (Exempt and Complying Development Codes) 2008 only. The table does not specify whether any code applies to the land; applicants should read the full extent of the code with their building certifier, solicitor, or other professional to determine whether any code applies to the land.

The first column identifies the code(s). The second column describes the extent of the land in which exempt and complying development is permitted, as per the clauses above, for the code(s) given to the immediate left. The third column indicates the reason as to why exempt and complying development is prohibited on some or all of the land, and will be blank if such development is permitted on all of the land.

Code	Extent of the land for which development is permitted:	The reason(s) as to why development is prohibited:
Housing Code, Rural Housing Code, Greenfield Housing Code and Low Rise Medium Density Housing Code	All	
Commercial and Industrial (New Buildings and Additions) Code	All	

Code	Extent of the land for which development is permitted:	The reason(s) as to why development is prohibited:
General Development Code, Container Recycling Facilities Code, Fire Safety Code, Housing Alterations Code, Commercial and Industrial Alterations Code, Subdivisions Code, and Demolition Code	All	

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

Nil

4. Coastal protection*

Has the Department of Finance, Services and Innovation notified Council of the land being affected by 38 or 39 of the Coastal Protection Act, 1979?

No

4A. Certain information relating to beaches and coasts*

(a) Has an order has been made under Part 4D of the Coastal Protection Act 1979 on the land (or on public land adjacent to that land)?

No

(b) Has Council been notified under section 55X of the Coastal Protection Act 1979 that temporary coastal protection works have been placed on the land (or on public land adjacent to that land), and if works have been so placed, is council is satisfied that the works have been removed and the land restored in accordance with that Act?

Not applicable

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

Has the owner (or any previous owner) of the land consented, in writing, that the land is 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)?

No

5. Mine subsidence*

Is the land a proclaimed to mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961?

No

6. Road widening and road realignment

Is the land is affected by any road widening or road realignment under:

(a) Division 2 of Part 3 of the Roads Act 1993?*

No

(b) An EPI?

No

(c) A resolution of the council?

No

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

The following table lists hazard/risk policies that have been adopted by Council (or prepared by another public authority and subsequently adopted by Council). The right-most column indicates whether the land is subject to those policies.

Hazard/Risk	Adopted Policy	Does this hazard/risk policy apply to the land?
Landslip hazard	Nil	No
Bushfire hazard	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	No
	Edmondson Park South DCP 2012	No
	Planning for Bushfire Protection (Rural Fire Services, 2006)*	No
	Pleasure Point Bushfire Management Plan	No
Tidal inundation	Nil	No

Hazard/Risk	Adopted Policy	Does this hazard/risk policy apply to the land?
Subsidence	Nil	No
Acid Sulphate Soils	Liverpool LEP 2008	No
	Liverpool DCP 2008	No
Potentially Contaminated Land	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	Yes , see Figure 2-8 of Schedule 1 of the Liverpool Growth Centres Precinct DCP
Potentially Saline Soils	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	Yes , see Figure 2-4 of Schedule 1 of the Liverpool Growth Centres Precinct DCP

Note: Land for which a policy applies does not confirm that the land is affected by that hazard/risk. For example, all land for which the Liverpool DCP applies is subject to controls relating to contaminated land, as this policy contains triggers and procedures for identifying potential contamination. Applicants are encouraged to review the relevant policy, and other sections of this certificate, to determine what effect, if any, the policy may have on the land.

7A. Flood related development controls information

- (a) For the purpose of residential accommodation (excluding group homes or seniors housing), is the land, or part of the land, within the flood planning area and subject to flood planning controls?

No

For details of these controls, please refer to the flooding section of the relevant DCP(s) as specified in Section 1(c) of this certificate.

- (b) Is development on that land, or part of the land, for any other purpose subject to flood related development controls?

No

For details of these controls, please refer to the flooding section of the relevant DCP(s) as specified in Section 1(c) of this certificate.

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

8. Land reserved for acquisition

Does a LEP, draft LEP, SEPP or draft SEPP identify the acquisition of the land, or part of the land, by a public authority, as referred to in section 3.15 of the Act?

No

9. Contribution Plans

Liverpool Contributions Plan 2014 - Austral and Leppington North Precincts

9A. Biodiversity certified land*

Is the land, or part of the land, biodiversity certified land (within the meaning of Part 8 of the Biodiversity Conservation Act 2016)?

Yes, part/all of the land is bio-diversity certified land

10. Biobanking agreements*

Is the land subject to a bio-banking agreement under Part 6 of the Biodiversity Conservation Act 2016, as notified to Council by the Chief Executive of the Office of Environment and Heritage?

No

10A. Native vegetation clearing set asides

Does the land contain a set aside area under section 60ZC of the Local Land Services Act 2013?

No, Liverpool is excluded from section 60ZC of the Local Land Services Act 2013

11. Bushfire prone land

Is the land or part of the land, bushfire prone land as defined by the EP&A Act 1979?

No

12. Property vegetation plans*

Is Council aware of the land being subject to a Property Vegetation Plan under the Native Vegetation Act 2003?

No, Liverpool is excluded from the operation of the Native Vegetation Act 2003

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

Does an order, made under the Trees (Disputes Between Neighbours) Act 2006 in relation to carrying out of work in relation to a tree on the land, apply?

No, Council has not been notified of an order

14. Directions under Part 3A*

Is there a direction (made by the Minister) that a provision of an EPI in relation to a development does not have effect?

No

15. Site compatibility certificates and conditions for seniors housing*

(a) Is there is a current site compatibility certificate (seniors housing), in respect of proposed development on the land?

No, Council has not been notified of an order.

16. Site compatibility certificates for infrastructure*

(a) Is there is a current site compatibility certificate (infrastructure), in respect of proposed development on the land?

No, Council has not been notified of an order

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

Is there is a current site compatibility certificate (Affordable housing), in respect of proposed development on the land?

No, Council has not been notified of an order.

18. Paper subdivision information*

Does any development plan adopted by a relevant authority (or proposed plan subject to a consent ballot) apply to the land? If so the date of the subdivision order that applies to the land.

No

19. Site verification certificates*

Does a current site verification certificate, apply to the land?

No, Council is not aware of a site verification certificate

20. Loose-fill asbestos insulation *

Is a dwelling on the land listed on the register (maintained by the NSW Department of Fair Trading) as containing loose-fill asbestos insulation?

No

Note: despite any listing on the register, any buildings constructed before 1980 may contain loose-fill asbestos insulation or other asbestos products.

21. Affected building notices and building product rectification orders*

Is there any affected building notice (as in Part 4 of the Building Products (Safety) Act 2017) of which the council is aware that is in force in respect of the land?

No

Is there any building product rectification order (as in the Building Products (Safety) Act 2017) of which the council is aware that is in force in respect of the land and has not been fully complied with?

No

Is there any notice of intention to make a building product rectification order (as in the Building Products (Safety) Act 2017) of which the council is aware has been given in respect of the land and is outstanding?

No

22. Contaminated land

Is the land:

(a) Significantly contaminated land within the meaning of that Act?

No

(b) Subject to a management order within the meaning of that Act?

No

(c) Subject of an approved voluntary management proposal within the meaning of that Act?

No

(d) Subject to an ongoing maintenance order within the meaning of that Act?

No

(e) Subject of a site audit statement within the meaning of that Act? *

No

Note: in this clause 'the Act' refers to the Contaminated Land Management Act 1997.

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO SECTION 10.7(5) OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT (EP&A ACT) 1979

1. Controlled access road

Does the land have a boundary to a controlled access road?

No

2. Sewer Access and On-site Management

On-Site Sewerage Management System/s

Council's records indicate that the property may not be connected to Sydney Water's sewerage system.

If the property is not connected and emits any waste water (sewerage) it must have an On-Site Sewerage Management System that is operating satisfactorily. It is the ongoing responsibility of the current owner(s) of the property (at any given time) to ensure that any On-Site Sewerage Management System continually operate in compliance with the relevant provisions of the Local Government Act 1993, and the Protection of the Environment Operations Act 1997 (including regulations made there under).

It is recommended that any applicant intending to purchase the property make enquires to ascertain if the property has an On-Site Sewerage Management System and engage the services of a suitably qualified wastewater engineer or plumber to assess the condition and compliance status of those system(s).

The Onsite Sewage System for this property is now an "Absorption System" but if it fails at any time the onsite system will have to be turned into a pump out system where the effluent will be required to be removed off site by tanker.

3. Other Information in Relation to Water Restrictions

Nil

4. Contaminated Land

Nil

5. Airport Noise Affectation*

Nil

6. Environmentally Significant Land

Nil

7. Archaeological Management Plan

Nil

8. Western Sydney Long Term Strategic Corridors*

Has the NSW Government identified that the land may be traversed by, or located near, a future transport corridor as identified in the Western Sydney Long Term Strategic Corridors project?

No

For more information on the Western Sydney Long Term Strategic Corridors, visit:
<https://www.transport.nsw.gov.au/corridors>

9. Fifteenth Avenue Smart Transit Project

Not Applicable

10. Offensive Odour and Rural Land Uses

The land is within the South-West Growth Centre. Despite the current zone, the land was formerly within a rural zoned area. In this area, there are certain agricultural activities that can cause noise, dust and odours that some people may find offensive. This should be taken into account when purchasing a dwelling or considering the erection of a dwelling house. The potential impact of any activities which may impact on nearby agricultural producers (such as pets, inadequate fencing, litter, poor weed control) should also be considered.



Eddie Jackson

Acting Chief Executive Officer
Liverpool City Council

For further information, please contact
CALL CENTRE – 1300 36 2170

Application: 10494692
Your Ref: BW Chicken

04 August 2020

**Property details: 37 Kelly St Austral NSW 2179
LOT A DP 391036**

We refer to your application for a copy of a Sewerage Service Diagram in respect of the above property and would advise that a sewerage service diagram is not available.

The fee paid by you has been applied to the cost of searching Sydney Water's records and a refund will not be issued.

Yours sincerely

Customer Property Services
Customer Services

Application: 10494694
Your Ref: BW Chicken

04 August 2020

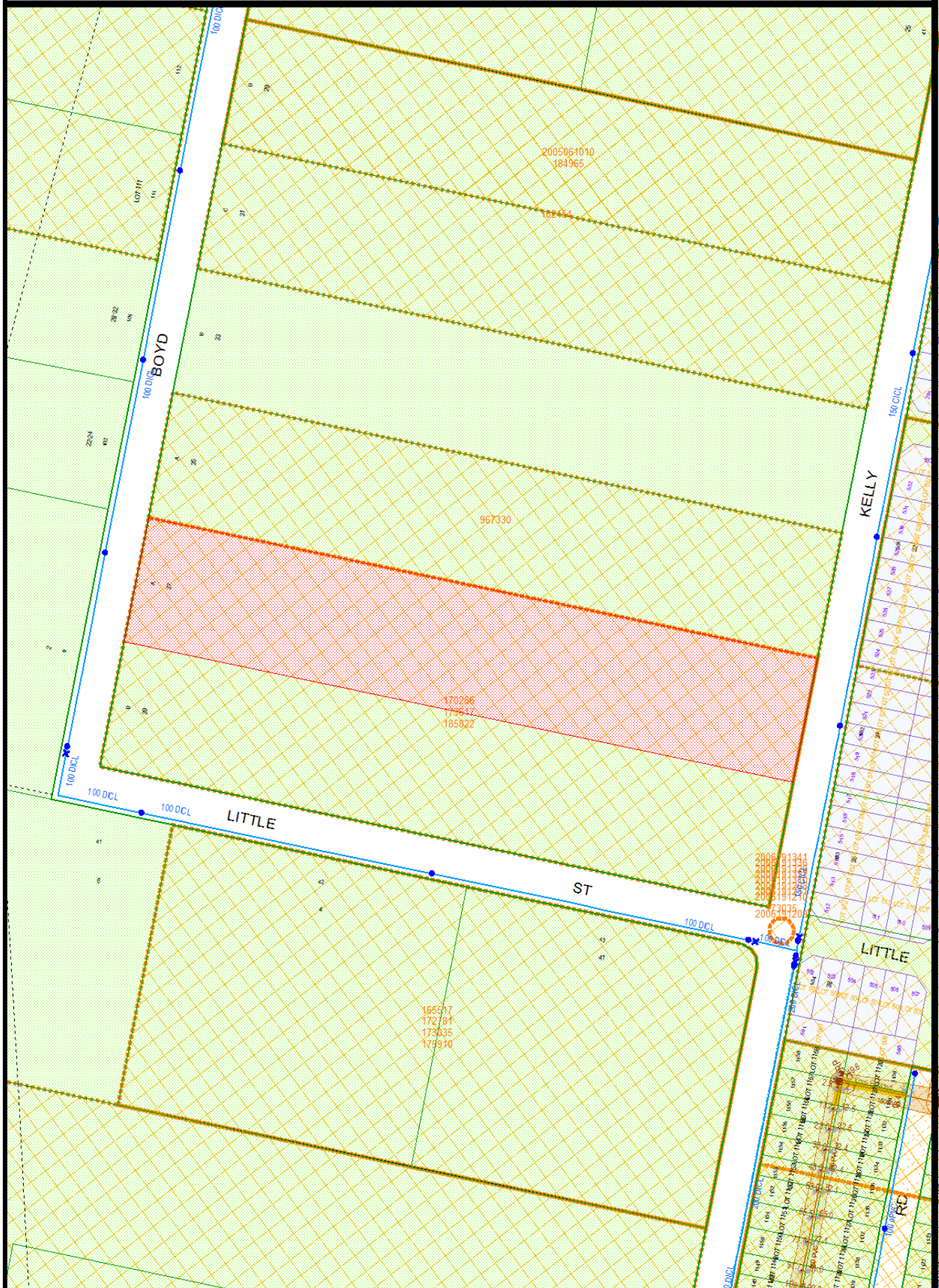
**Property details: 39 Kelly St Austral NSW 2179
LOT B DP 391036**

We refer to your application for a copy of a Sewerage Service Diagram in respect of the above property and would advise that a sewerage service diagram is not available.

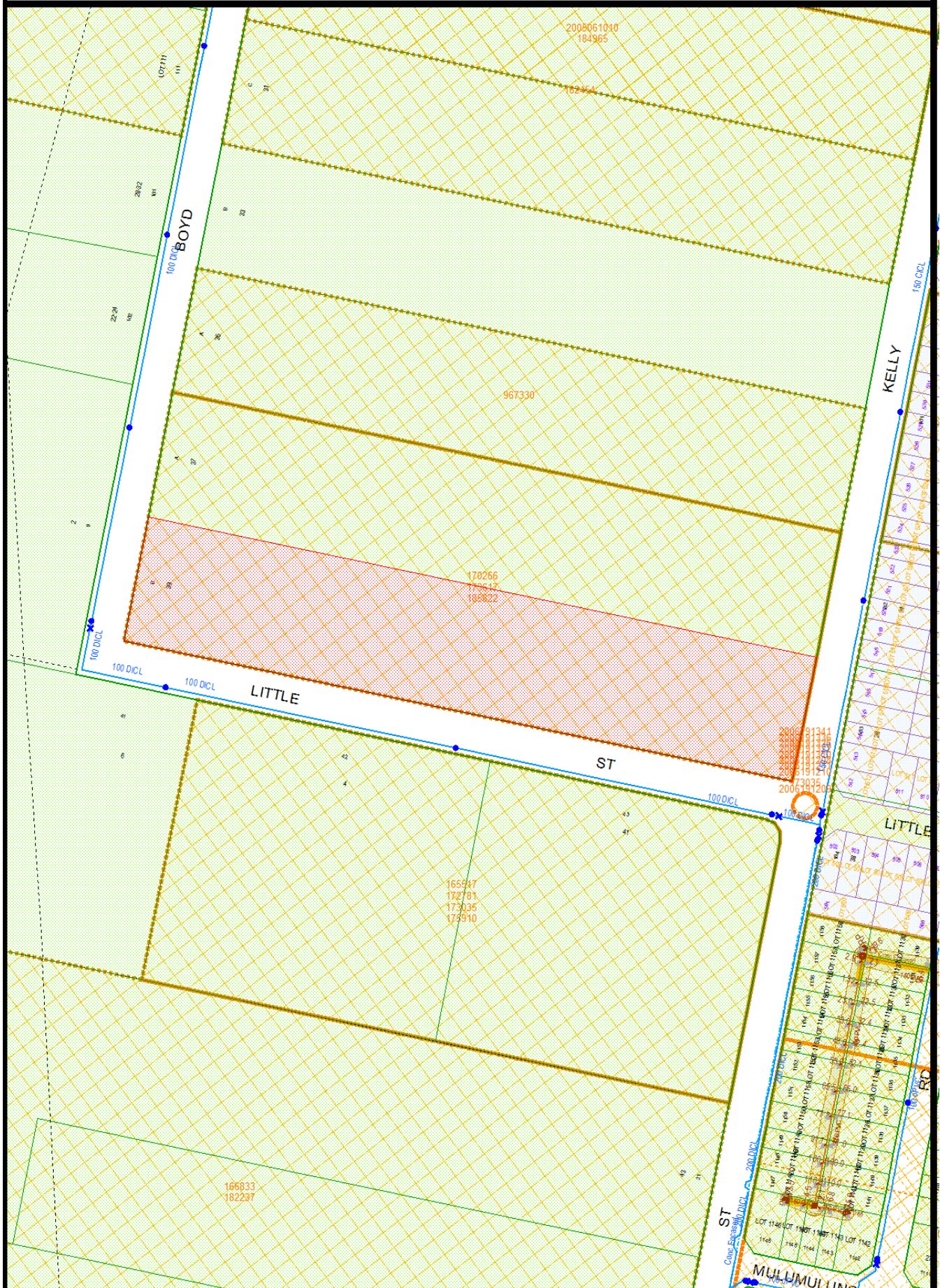
The fee paid by you has been applied to the cost of searching Sydney Water's records and a refund will not be issued.

Yours sincerely

Customer Property Services
Customer Services



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



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