


Buyers Auction Guide

10 Fermoy Link, Duncraig

Auction | Saturday 4th October 2025 @ 11am (if not sold prior)



 6
  2
  2
  1


Council City of Joondalup
 Year Built 2007 (approx)
 Land Size 640sqm (approx)
 Floor Size 340sqm (approx)
 Zoning R20

Council Rates \$2,798.29
 Water Rates \$1,470.29
 Estimated Rental \$1,050-\$1,150pw


CONTRACT SPECIFICS:

Deposit \$50,000
 Settlement Date 30-45days from auction by mutual agreement
 Additional Terms Spa and V.I.E.T.M.C. a... See annexure A and Certificate of Title

Mandie Cubeddu

 0411 880 053

 mcubeddu@realmark.com.au

 08 9246 0050

 northcoastal.realmark.com.au



 Follow us.

Contents:

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Floor Plan

Building and Timber Pest Report

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Auction Particulars & Conditions of Sale – Draft

Bidders Registration Form


Joint form of General Conditions

Comparative Market Analysis

Comparable Sales

1

19 WICKLOW CIRCLE DARCH WA 6065



5

2

2

626m²

224m²

Year Built

2008

DOM

65

Sold Date

15-Oct-24

Distance

0.85km

First Listing


Offers closing 7th October

Last Listing

UNDER OFFER!

2

36 WESTPORT PARADE DARCH WA 6065



5

2

2

650m²

192m²

Year Built

2006

DOM

36

Sold Date

18-Feb-25

Distance

0.33km

First Listing


OFFERS CLOSING 17th FEB

Last Listing

UNDER OFFER

3

10 BLACKHEATH PLACE DARCH WA 6065



5

2

2

614m²

254m²

Year Built

2008

DOM

125

Sold Date

11-Aug-24

Distance

0.88km

First Listing


Set Date Sale | 12/8/24

Last Listing

Set Date Sale | 11/8/24

4

2 CHELTONDALE DRIVE MADELEY WA 6065



5

2

2

672m²

271m²

Year Built

2008

DOM

-

Sold Date

06-Jun-25

Distance

1.1km

First Listing


-

Last Listing

-

5

30 LONGFORD CIRCUIT DARCH WA 6065



4

2

2

687m²

221m²

Year Built

2003

DOM

59

Sold Date

30-Apr-25

Distance

0.35km

First Listing

From \$1.15m

Last Listing

Offers Low \$1 Millions

DOM = Days on market RS = Recent sale

UN = Undisclosed Sale

* This data point was edited by the author of this CMA and has not been verified by Cotality

Comparable Sales




61 LANDSDALE ROAD DARCH WA 6065

4
 2
 2
 619m²
 255m²

Year Built	2011	DOM	7
Sold Date	18-Feb-25	Distance	1.28km
First Listing	Be The First To View		
Last Listing	Sold		

Sold
\$1,251,000




35 ZEUS AVENUE MADELEY WA 6065

	5		2		2		579m ²		225m ²
Year Built	2005				DOM	56			
Sold Date	12-Sep-24				Distance	1.43km			
First Listing	-								
Last Listing	SOLD... More properties Wanted !								

Sold


\$1,030,000








67 MONAGHAN CIRCLE DARCH WA 6065

Sold

\$1,350,000



 4
  2
  4
  786m²
 310m²

Year Built

2006

DOM

77

Sold Date

19-Apr-25

Distance

0.67km

First Listing

E-O-I

Last Listing

BEST OFFER FROM 1.35 MILLION

DOM = Days on market RS = Recent sale UN = Undisclosed Sale * This data point was edited by the author of this CMA and has not been verified by Cotality

Disclaimer

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2nd September 2025

Dear Investor

Thank you for the opportunity to provide you with an appraisal at 10 Fermoy Link Darch WA

When it comes to your property investment, we know it's all about three key considerations –rental yield, asset protection and risk minimisation - not just a focus on collecting rent.

To assist our clients in achieving the maximum return in their investment, we have instilled our years of experience to the following approach:



Our Rental Value Research takes into consideration a range of factors including the property's features, location and market conditions, so you can make an informed decision.

This research indicates the rent for your property would achieve approximately \$1050 - \$1150 per week for each home.

We will be in touch shortly to share with you how we would approach managing your property investment to achieve the maximum return for you.

Yours Sincerely

Colleen Laverty
Investment Manager
0407 832 235



NB: This opinion has been prepared solely for your information and not for any third party. Every care has been taken in arriving at the above figure. We stress that this is a market opinion only and NOT sworn valuation.

Certificate of Title

WESTERN



AUSTRALIA

TITLE NUMBER

Volume

Folio

2545

111

RECORD OF CERTIFICATE OF TITLE

UNDER THE TRANSFER OF LAND ACT 1893

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

BG Roberts
REGISTRAR OF TITLES



LAND DESCRIPTION:

LOT 404 ON DEPOSITED PLAN 37117

REGISTERED PROPRIETOR: (FIRST SCHEDULE)

TIAGO MARCIO SOUZA DALLAMARIA
GABRIELA DE MARQUES MARTINS
BOTH OF 10 FERMOY LINK, DARCH
AS JOINT TENANTS

(T M439150) REGISTERED 22/10/2013

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)

1. I599106 MEMORIAL. TOWN PLANNING AND DEVELOPMENT ACT 1928. REGISTERED 21/8/2003.
2. RESTRICTIVE COVENANT BENEFIT - SEE DEPOSITED PLAN 37117 AND INSTRUMENT I599110.
3. RESTRICTIVE COVENANT BURDEN - SEE DEPOSITED PLAN 37117 AND INSTRUMENT I599110.
4. RESTRICTIVE COVENANT BENEFIT - SEE DEPOSITED PLAN 37117 AND INSTRUMENT I599109
5. M439151 MORTGAGE TO WESTPAC BANKING CORPORATION REGISTERED 22/10/2013.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP37117
PREVIOUS TITLE: 2537-192
PROPERTY STREET ADDRESS: 10 FERMOY LINK, DARCH.
LOCAL GOVERNMENT AUTHORITY: CITY OF WANNEROO

JACKSON McDONALD

BARRISTERS & SOLICITORS

GPO Box M971 Perth
Western Australia 6843
DX 140 Perth

St Georges Centre 81 St Georges Terrace
Perth Western Australia 6000

Telephone: (08) 9426 6611
Direct: (08) 9426 6755
Facsimile: (08) 9481 8649
E-mail: gboyle@jacmac.com.au

OUR REF: GRB:1160193
CONTACT: GREGORY BOYLE
YOUR REF:

9 September 2003

The Registrar of Titles
Department of Land Information
Midland Square
MIDLAND WA 6056

ATTENTION: MR ALAN MCPHERSON

BY FAX: 9273 7668 488

Dear Sir

RESTRICTIVE COVENANT

We refer to our telephone conversation with Mr McPherson earlier today.

Restrictive Covenant 599109 (Dress Circle Covenants)

The intent that each of Lots 424-429 on DP 37117 (inclusive) is to be the subject of the Restrictive Covenant and that each of those lots and every other lot on the plan (other than the super lots, roads, etc), is to obtain the benefit of the Restrictive Covenant, would you please construe the following provisions as if, in the cases marked, "Lot" were the generic, undefined small "l" "lot" and the document were as follows:

"1.2 The Restrictive Covenants on each Lot on the Plan are for the benefit of every other Lot on the Plan."

Please construe 1.3 in a similar fashion as follows:

"1.3 The Restrictive Covenants will bind the successors in title and the registered proprietors from time to time of each Lot and the Restrictive Covenants will benefit the successors in title and the registered proprietors from time to time of each other Lot."

TO THE ADDRESSEE: We cannot guarantee the reliability, completeness or confidentiality of this Communication (this term includes all attachments).

IF YOU ARE NOT THE INTENDED ADDRESSEE: Material in this Communication is confidential and may be legally privileged. No confidentiality is lost or privilege waived by your receipt of it. Please notify us if you have received it.

grb #364375 V1

CHAIRMAN
GRAHAM GOERCK

PARTNERS
GREGORY BOYLE
JONATHAN ELSBRY
JOHN MENGLER
NEIL GENTILI

STEPHEN DOYLE
PHILIP LANSALL
RICHARD SANDOVER
PAUL FYFE
JUNE BARTLETT
BASIL GEORGIU
DAVID CARTER
DAVID SASH

ANTHONY BERETINE
MATTHEW BOWEN
ADAM LEVIN
MARIA SARACENI
PETER WALTON
PATRICIA CAHILL
KENNETH MILDWATERS
STEPHANIE PAULNER

INSURANCE COUNSEL
MICHAEL SCHWIKKARD

CONSULTANTS
PETER CAVE
CLIVE LUMSDON
IAN WARNER

SENIOR ASSOCIATES
VICTORIA BUTLER
ALEX LUSTIG
JAMES LYFORD
JOHN PANEGYRES
ANDREAS VON ALTENSTADT

- 2 -

Restrictive Covenant 599110

Please make the same amendments as to document 599109 so that it reads:

- "1.2 The Restrictive Covenants on each Lot on the Plan are for the benefit of every other Lot on the Plan."; and .
- "1.3 The Restrictive Covenants will bind the successors in title and the registered proprietors from time to time of each Lot and the Restrictive Covenants will benefit the successors in title and the registered proprietors from time to time of each other Lot."

Schedule**2. Lots**

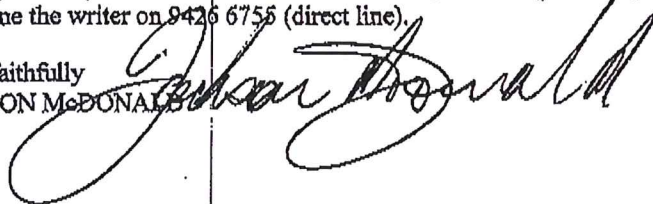
Please delete "402-433" and replace with:

"402-423, 430-433,".

Thank you for your assistance and if there is any further question, please do not hesitate to telephone the writer on 9426 6755 (direct line).

Yours faithfully

JACKSON McDONALD



mh #364375 V1

INSTRUCTIONS

1. This form may only be used when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The address and occupation of the witness must be stated.

EXAMINED



REG. \$ 77.00

LODGED BY
BankWest Conveyancing
Licenced Real Estate & Business Settlement Agent
Level 26 BankWest Tower
ADDRESS
108 St Georges Terrace
Perth Western Australia 6000
PHONE No. (08) 9449 6779
FAX No. (08) 9449 6779

FAX No.

REFERENCE No. GRB:1152078

ISSUING BOX No.

Grey Eri

PREPARED BY JACKSON McDONALD

ADDRESS 81 St Georges Terrace
PERTH WA 6000
Ref: GRB: 1160193 (j)/#330321 V2)
REGULAR COVENANTS

PHONE No. (08) 9426 6611 FAX No. (08) 9481 8649

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. _____	Received Items
2. _____	Nos.
3. _____	5/5
4. _____	<i>h</i>
5. _____	
6. _____	Receiving Clerk

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



EXECUTED BY THE TRANSFEROR AS A DEED

SIGNED by

John Paul Ford

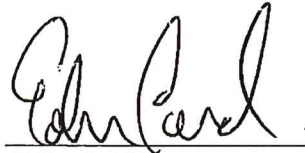
as Attorney for

STOCKLAND WA DEVELOPMENT PTY LIMITED

ACN 000 097 825

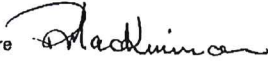
under Power of Attorney I 566178

In the presence of:



JOHN PAUL FORD

Witness Signature



Name: PRISCILLA MACKINNON

Address: PO BOX 922 CANNING BRIDGE

Occupation: CONTRACTS MANAGER

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

DEED OF RESTRICTIVE COVENANT

(Note 1)

THIS DEED is made the 4 day of August 2003.

BY:

STOCKLAND WA DEVELOPMENT PTY LIMITED (ACN 000 097 825), formerly Stockland WA (Constructors) Pty Ltd of PO Box 922, Canning Bridge ("Transferor")

BACKGROUND:

1. The Transferor is the registered proprietor in fee simple of the land described in item 1 of the schedule ("Subdivision Land"), subject to the encumbrances set out in item 3 of the schedule.
2. The Transferor intends to subdivide the Subdivision Land into the lots shown on Deposited Plan 37117 ("Plan") and described in item 2 of the schedule ("Lots").
3. In accordance with section 136D of the Transfer of Land Act, the Transferor requires each of the Lots to be encumbered with the restrictive covenants set out in this Deed ("Restrictive Covenants") so that the Restrictive Covenants will be noted on the Plan, and, when separate Certificates of Title issue for each Lot, the burden of the Restrictive Covenants will be noted on each Certificate of Title.

OPERATIVE PART:

1. Certificate of Title

- 1.1 Each Certificate of Title which issues for a Lot shall be encumbered by the Restrictive Covenants.
- 1.2 The Restrictive Covenants on each Lot on the Plan are for the benefit of every other Lot on the Plan.
- 1.3 The Restrictive Covenants will bind the successors in title and the registered proprietors from time to time of each Lot and the Restrictive Covenants will benefit the successors in title and the registered proprietors from time to time of each other Lot.

2. Restrictive Covenants

The Owner ("Transferee") of each Lot ("Land") covenants with the Transferor as follows:

- 2.1 Without the approval in writing of the Transferor, no fence or wall shall be constructed along a side boundary of the Land from a point level with the front building line of any residence on the Land ("Residence"), to the boundary with the roadway and if the Land adjoins more than one roadway the front building line shall be measured from each side of the Residence facing the roadway. For the purposes of this clause the front building line of the Residence is:
 - (a) the line of the front face of the bricks of the front wall of the Residence; or
 - (b) where the front building line of any residence on a lot adjoining the Land is constructed behind the front building line of the Residence then the front building line of the Residence shall be the same as the front building line of the residence on the lot adjoining the Land; or
 - (c) any other front building line that the Transferor in its absolute discretion determines.
- 2.2 Without the approval in writing of the Transferor no fence or wall shall be of any material except Colorbond, brick, limestone or similar material.
- 2.3 The Transferee will not construct, erect, install or carry out or permit to be constructed or erected on the Land a Residence:
 - (a) which does not contain a double carport or garage sufficient for at least two motor vehicles side-by-side;
 - (b) which comprises a double carport outside the main roof area which does not match or complement the Residence as to pitch of roof, material, design, colour and external appearance;
 - (c) unless the floor to any garage or carport and any driveway and the cross-over between the road and driveway on the Land are constructed and completed prior to occupation of the Residence;

- (d) served by a driveway which is not:
- (i) constructed to the kerb line; and
 - (ii) constructed using brick paving;
 - (iii) less than 2.0m wide.

2.4 No Residence shall be erected UNLESS:

- (a) The minimum living area including external cavity walls is 165m², excluding verandahs, carports/garages, covered porticoes, alfresco areas and any other unenclosed areas.
- (b) Where the Land is less than 500m² ("Cottage Lot"), or a Strata Lot, the minimum living area of each Residence including external cavity walls is 120m², excluding verandahs, carports/garages, covered porticoes, alfresco areas and any other unenclosed areas.
- (c) Its external walls are and have the appearance of being predominantly of rendered brick, brick or brick veneer construction, and roofed with clay or concrete tiles or Colorbond (not zincalume).

2.5 No repair or restoration of any motor vehicle, boat, boat trailer or any other vehicle or any other machine may be carried on unless it is behind the building line of the Residence and is not visible to public view.

2.6 No parking of commercial vehicles including trucks, buses and tractors (excluding panel vans, utilities and the like) is permitted unless not visible to public view.

2.7 No Residence or other building may be constructed on the Land UNLESS:

- (a) The plans and specifications have been approved by the Transferor and appropriately endorsed.
- (b) The plans and specifications have been approved by the relevant planning and local authorities ("Authorities").

2.8 Not for a period of 5 years from the date of this deed or before any building is erected on the Land display a "For Sale" sign but this restriction shall not operate to prevent the Transferee from selling or otherwise disposing of the Land without displaying a sign.

2.9 These Restrictive Covenants will not be modified, surrendered, released or abandoned either wholly or partially except with the prior written consent of the Transferor. The Transferee will not make an application to any Court, the Commissioner of Titles or the Office of Titles for the partial or complete modification, removal or extinguishment of the Restrictive Covenants, except with the prior written consent of the Transferor or the persons for the time being entitled to the benefit of the Restrictive Covenants.

3. Separate and Distinct

Each Restrictive Covenant is a separate and distinct Restrictive Covenant, and if any Restrictive Covenant or its application to any person or circumstance is or becomes invalid or unenforceable then the remaining Restrictive Covenants will not be affected and each remaining Restrictive Covenant will be valid and enforceable to the fullest extent permitted by law.

4. Term of Restrictive Covenants

The Restrictive Covenants shall expire and cease to have effect on 31 December 2013.

SCHEDULE

1. Subdivision Land

Lots 348-354, 398, 402-433, 464-476, 15117, 15118, 9018 and 9019, roads and restrictive covenants on Deposited Plan 37117 part of the land in Certificates of Title Volume 2532 Folio 686 and Volume 2537 Folio 192.

2. Lots

402-433, 430-433

Lots 348-354, 398, ~~402-433~~, 464-476 on Deposited Plan 37117.

3. Encumbrances

see letter.

Nil

8

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2. If insufficient space hereon Additional Sheet Form B1 should be used.
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NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The address and occupation of the witness must be stated.

EXAMINED

I 599109 RC

21 Aug, 2003 16:24:37 Perth



REG. \$ 77.00

LODGED BY
BankWest Conveyancing
Licensed Real Estate & Business Settlement Agent
Level 23 BankWest Tower
ADDRESS 108 St Georges Terrace
Perth Western Australia 6000
PHONE NO. (08) 9449 6650 Fax (08) 9449 6779
LTO Box No. 162V

FAX No.

REFERENCE No. GRB:1152078

ISSUING BOX No.

PREPARED BY JACKSON McDONALD

ADDRESS 81 St Georges Terrace
PERTH WA 6000
Ref: GRB: 1160193 (I/330334 V2)
DRESS CIRCLE COVENANTS

PHONE No. (08) 9426 6611 FAX No. (08) 9481 8649

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

4/5

TITLES, LEASES, DECLARATIONS ETC LODGED HERewith

1. _____	Received Items	4/5	N
2. _____	Nos.		
3. _____			
4. _____			
5. _____			
6. _____	Receiving Clerk		

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



EXECUTED BY THE TRANSFEROR AS A DEED

SIGNED by
John Paul Ford
as Attorney for
STOCKLAND WA DEVELOPMENT PTY LIMITED
ACN 000 097 825
under Power of Attorney I 566178
In the presence of:



JOHN PAUL FORD

Witness Signature 

Name: PRISCILLA MACKINNON

Address: PO BOX 422 CANNING BRIDGE

Occupation: CONTRACTS MANAGER

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

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BY:

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3. In accordance with section 136D of the Transfer of Land Act, the Transferor requires each of the Lots to be encumbered with the restrictive covenants set out in this Deed ("Restrictive Covenants") so that the Restrictive Covenants will be noted on the Plan, and, when separate Certificates of Title issue for each Lot, the burden of the Restrictive Covenants will be noted on each Certificate of Title.

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2. Restrictive Covenants

The Owner ("Transferee") of each Lot ("Land") covenants with the Transferor as follows:

- 2.1 Without the approval in writing of the Transferor, no fence or wall shall be constructed along a side boundary of the Land from a point level with the front building line of any residence on the Land ("Residence"), to the boundary with the roadway and if the Land adjoins more than one roadway the front building line shall be measured from each side of the Residence facing the roadway. For the purposes of this clause the front building line of the Residence is:
 - (a) the line of the front face of the bricks of the front wall of the Residence; or
 - (b) where the front building line of any residence on a lot adjoining the Land is constructed behind the front building line of the Residence then the front building line of the Residence shall be the same as the front building line of the residence on the lot adjoining the Land; or
 - (c) any other front building line that the Transferor in its absolute discretion determines.
- 2.2 Without the approval in writing of the Transferor no fence or wall shall be of any material except Colorbond, brick, limestone or similar material.
- 2.3 Without the approval in writing of the Transferor, no fence or retaining wall installed by the Transferor on the Land shall be altered in any way whatsoever.
- 2.4 The Transferee will not construct, erect, install or carry out or permit to be constructed or erected on the Land a Residence:
 - (a) which does not contain a double carport or garage at least 6 metres wide and 7 metres deep including at least 4m² of storage space and sufficient for at least two motor vehicles side-by-side;

- (b) including a garage on any location other than as shown on, and having the truncation shown on, the detailed area plan;
 - (c) including a double carport outside the main roof area which does not match or complement the Residence as to pitch of roof, material, design, colour and external appearance;
 - (d) unless the floor to any garage or carport and any driveway and the cross-over between the road and driveway on the Land are constructed and completed prior to occupation of the Residence;
 - (e) served by a driveway which is not:
 - (i) constructed to the kerb line; and
 - (ii) constructed using brick paving;
 - (iii) less than 2.0m wide.
- 2.5 No Residence shall be erected UNLESS:
- (a) The minimum living area including external cavity walls is 120m², excluding verandahs, carports/garages, covered porticoes, alfresco areas and any other unenclosed areas.
 - (b) Its external walls are and have the appearance of being predominantly of rendered brick, brick or brick veneer construction, and roofed with clay or concrete tiles or Colorbond (not zincalume).
 - (c) The front elevation of the Residence is staggered horizontally at least once with a minimum separation between each façade of 900mm.
 - (d) The front elevation of each Residence contains a single gable or corbelling.
 - (e) Its postal address is Waterford Parade.
 - (f) Its ground floor minimum set-back is 4 metres averaging to 5 metres and its upper floor minimum set-back is 5 metres averaging to 6 metres.
 - (g) It has a roof of anything other than clay or concrete tiles of a minimum 25° pitch.
- 2.6 Not to erect or allow to be erected any structure or outbuilding external to the Residence including any detached garage, workshop, garden shed, storage shed, pergola or other outbuilding.
- 2.7 Not to erect or cause to be erected any rotary clothes hoist.
- 2.8 Not to erect any alfresco dining area other than under the main roof of the Residence.
- 2.9 Not to excavate, contour or landscape the Land so as to permanently alter the elevation of the Land facing any roadway or road reserve unless compatible with the excavations, contouring or landscaping to be carried out on the whole of the Land and not in any event to raise the level of the Land by more than 0.3 metres.
- 2.10 No repair or restoration of any motor vehicle, boat, boat trailer or any other vehicle or any other machine may be carried on unless it is behind the building line of the Residence and is not visible to public view.
- 2.11 No clothes line or rubbish bin is to be visible to public view.
- 2.12 No parking of commercial vehicles including trucks, buses and tractors (excluding panel vans, utilities and the like) is permitted unless not visible to public view.
- 2.13 No Residence or other building may be constructed on the Land UNLESS:
- (a) The plans and specifications have been approved by the Transferor and appropriately endorsed.
 - (b) The plans and specifications have been approved by the relevant planning and local authorities ("Authorities").
- 2.14 Not for a period of 5 years from the date of this deed or before any building is erected on the Land display a "For Sale" sign but this restriction shall not operate to prevent the Transferee from selling or otherwise disposing of the Land without displaying a sign.

THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY

- 2.15 These Restrictive Covenants will not be modified, surrendered, released or abandoned either wholly or partially except with the prior written consent of the Transferor. The Transferee will not make an application to any Court, the Commissioner of Titles or the Office of Titles for the partial or complete modification, removal or extinguishment of the Restrictive Covenants, except with the prior written consent of the Transferor or the persons for the time being entitled to the benefit of the Restrictive Covenants.

3. Separate and Distinct

Each Restrictive Covenant is a separate and distinct Restrictive Covenant, and if any Restrictive Covenant or its application to any person or circumstance is or becomes invalid or unenforceable then the remaining Restrictive Covenants will not be affected and each remaining Restrictive Covenant will be valid and enforceable to the fullest extent permitted by law.

4. Term of Restrictive Covenants

The Restrictive Covenants shall expire and cease to have effect on 31 December 2013.

SCHEDULE

1. Subdivision Land

Lots 348-354, 398, 402-433, 464-476, 15117, 15118, 15135-15139, 9018 and 9019, roads and restrictive covenants on Deposited Plan 37117 part of the land in Certificates of Title Volume 2532 Folio 686 and Volume 2537 Folio 192.

2. Lots

Lots 424-429 on Deposited Plan 37117.

*A See letter as to what lots
every other lot on the plan excluding vesting lots
x 9018 & 9019*

3. Encumbrances

Nil.

SEP.09'2003 14:57 61 8 94818649

Jackson McDonald L11

#1169 P.001/002

JACKSON McDONALD
BARRISTERS & SOLICITORS

GPO Box M971 Perth
Western Australia 6843
DX 140 Perth

St Georges Centre 81 St Georges Terrace
Perth Western Australia 6000

Telephone: (08) 9426 6611
Direct: (08) 9426 6755
Facsimile: (08) 9481 8649
E-mail: gboyle@jacmac.com.au

OUR REF: GRB:1160193
CONTACT: GREGORY BOYLE
YOUR REF:

9 September 2003

The Registrar of Titles
Department of Land Information
Midland Square
MIDLAND WA 6056

ATTENTION: MR ALAN McPHERSON

BY FAX: 9273 7668 4/8%

Dear Sir

RESTRICTIVE COVENANT

We refer to our telephone conversation with Mr McPherson earlier today.

Restrictive Covenant 599109 (Dress Circle Covenants)

The intent that each of Lots 424-429 on DP 37117 (inclusive) is to be the subject of the Restrictive Covenant and that each of those lots and every other lot on the plan (other than the super lots, roads, etc), is to obtain the benefit of the Restrictive Covenant, would you please construe the following provisions as if, in the cases marked, "Lot" were the generic, undefined small "l" "lot" and the document were as follows:

"1.2 The Restrictive Covenants on each Lot on the Plan are for the benefit of every other lot on the Plan."

Please construe 1.3 in a similar fashion as follows:

"1.3 The Restrictive Covenants will bind the successors in title and the registered proprietors from time to time of each Lot and the Restrictive Covenants will benefit the successors in title and the registered proprietors from time to time of each other lot."

TO THE ADDRESSEE: We cannot guarantee the reliability, completeness or confidentiality of this Communication (this term includes all attachments).

IF YOU ARE NOT THE INTENDED ADDRESSEE: Material in this Communication is confidential and may be legally privileged. No confidentiality is lost or privilege waived by your receipt of it. Please notify us if you have received it.

grb #364375 V1

CHAIRMAN
GRAHAM GOERKE

PARTNERS
GREGORY BOYLE
JONATHAN ILBEY
JOHN MENGLER
NEIL GENTILI

STEPHEN DOYLE
PHILIP LANSILL
RICHARD SANDOVER
PAUL FIFE
JUNE BARTLETT
BASIL GEORGIU
DAVID CARTER
DAVID SASH

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ADAM LEVIN
MARIA SARACENI
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PATRICIA CAHILL
KENNETH MILDWATERS
STEPHANIE FAULKNER

INSURANCE COUNSEL
MICHAEL SCHWIKKARD

CONSULTANTS
PETER CAVE
CLIVE LUMSDON
IAN WARNER

SENIOR ASSOCIATES
VICTORIA BUTLER
ALEX LUSTIG
JAMES LYFORD
JOHN PANEGYRES
ANDREAS VON ALTENSTADT

- 2 -

Restrictive Covenant 599110

Please make the same amendments as to document 599109 so that it reads:

- "1.2 The Restrictive Covenants on each Lot on the Plan are for the benefit of every other Lot on the Plan."; and
- "1.3 The Restrictive Covenants will bind the successors in title and the registered proprietors from time to time of each Lot and the Restrictive Covenants will benefit the successors in title and the registered proprietors from time to time of each other Lot."

Schedule**2. Lots**

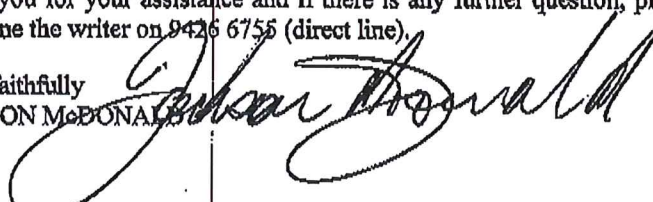
Please delete "402-433" and replace with:

"402-423, 430-433,".

Thank you for your assistance and if there is any further question, please do not hesitate to telephone the writer on 9426 6755 (direct line).

Yours faithfully

JACKSON McDONALD



mbs 2264175 V1

Deposited Plan 37117

Lot	Certificate of Title	Lot Status	Part Lot
348	2545/101	Registered	
349	2545/102	Registered	
350	2545/103	Registered	
351	2545/104	Registered	
352	2545/105	Registered	
353	2545/106	Registered	
354	2545/107	Registered	
398	2545/108	Registered	
402	2545/109	Registered	
403	2545/110	Registered	
404	2545/111	Registered	
405	2545/112	Registered	
406	2545/113	Registered	
407	2545/114	Registered	
408	2545/115	Registered	
409	2545/116	Registered	
410	2545/117	Registered	
411	2545/118	Registered	
412	2545/119	Registered	
413	2545/120	Registered	
414	2545/121	Registered	
415	2545/122	Registered	
416	2545/123	Registered	
417	2545/124	Registered	
418	2545/125	Registered	
419	2545/126	Registered	
420	2545/127	Registered	
421	2545/128	Registered	
422	2545/129	Registered	
423	2545/130	Registered	
424	2545/131	Registered	
425	2545/132	Registered	
426	2545/133	Registered	
427	2545/134	Registered	
428	2545/135	Registered	
429	2545/136	Registered	
430	2545/137	Registered	
431	2545/138	Registered	
432	2545/139	Registered	
433	2545/140	Registered	
464	2545/141	Registered	
465	2545/142	Registered	
466	2545/143	Registered	
467	2545/144	Registered	
468	2545/145	Registered	

Deposited Plan 37117

Lot	Certificate of Title	Lot Status	Part Lot
469	2545/146	Registered	
470	2545/147	Registered	
471	2545/148	Registered	
472	2545/149	Registered	
473	2545/150	Registered	
474	2545/151	Registered	
475	2545/152	Registered	
476	2545/153	Registered	
9018	2545/154 (Cancelled)	Retired	
9019	2545/155 (Cancelled)	Retired	
15117	2545/156	Registered	
15118	2545/157	Registered	
15135	2545/158	Registered	
15136	2545/159	Registered	
15137	2545/160	Registered	
15138	2545/161	Registered	
15139	2545/162	Registered	
0	N/A	Registered	
0	N/A	Registered	
0	N/A	Registered	
0	N/A	Registered	
0	N/A	Registered	
0	N/A	Registered	

Realmark[®]

Licensee North Coastal Pty Ltd

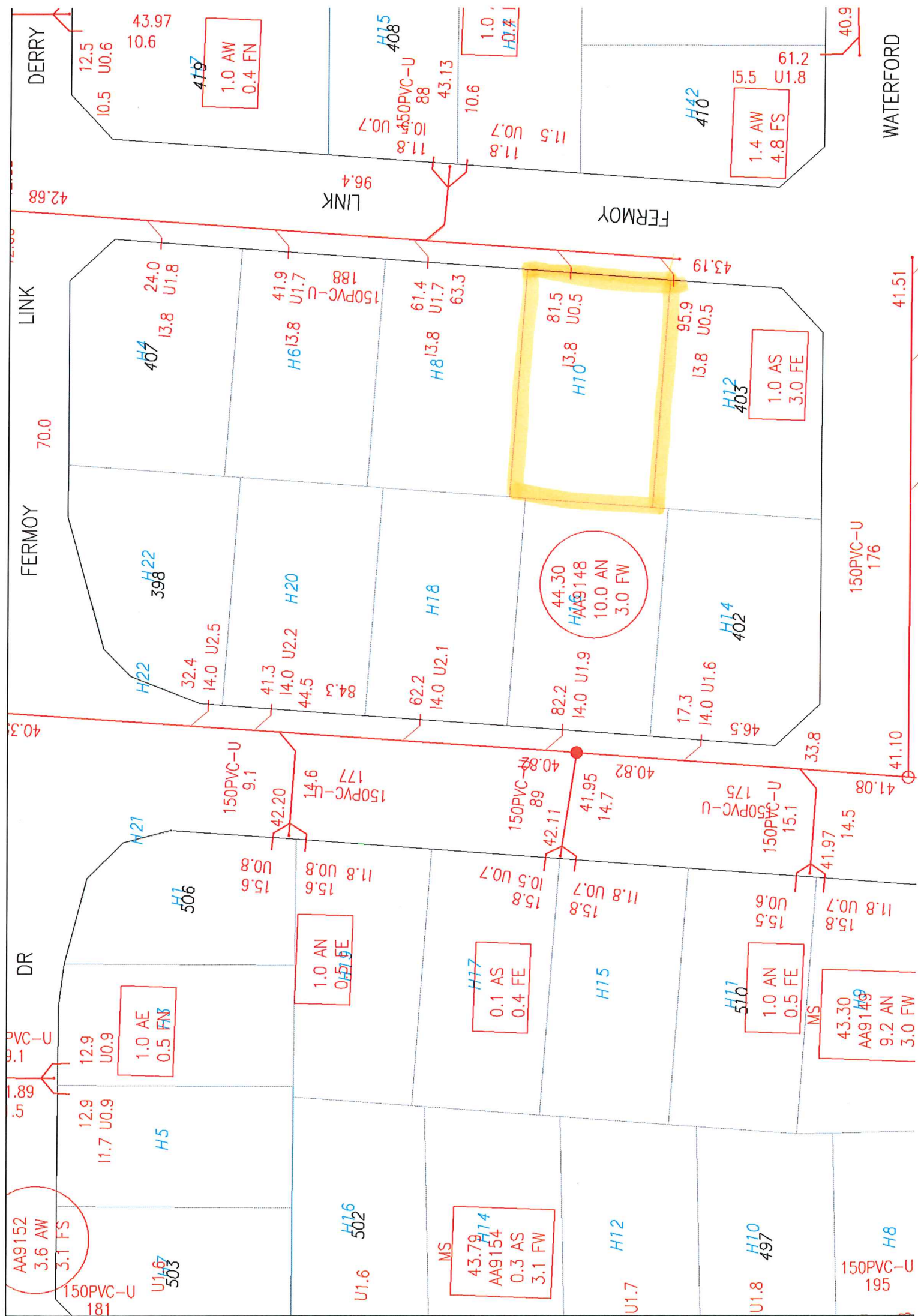
T/as Realmark North Coastal

Licensed Real Estate Agent

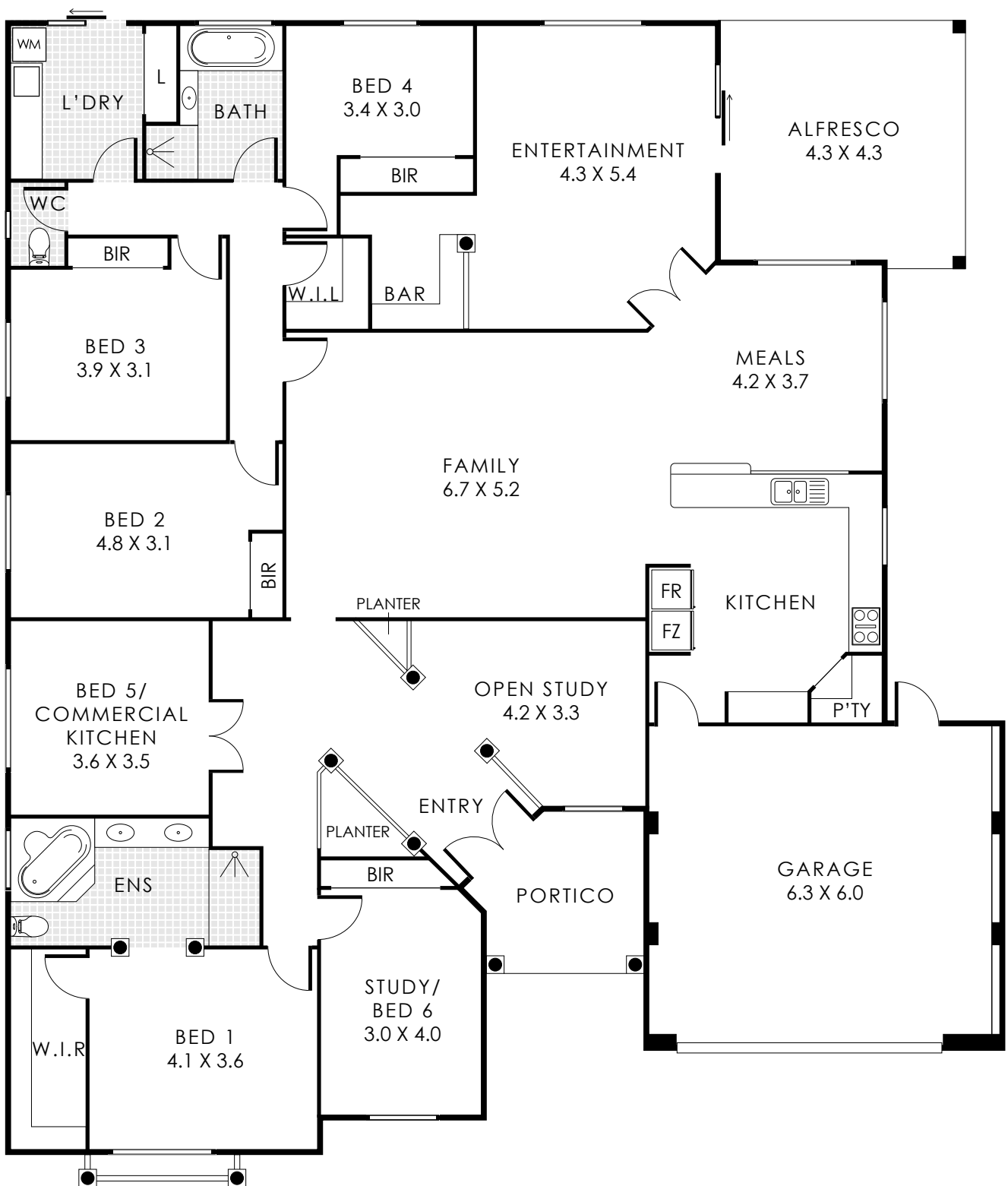
ABN 25 158 950 255 ACN 158 950 253 TC 64748

Dial before you dig





Floor Plan



10 Fermoy Link, Darch

Residence 273m² | Portico 8m² | Garage 39m² | Alfresco 19m² | Planter 1m²

Total Area 340m²

This floorplan is for illustration purposes only to show the layout of the property. Whilst every effort has been made to ensure the accuracy of this floor plan, all measurements, and any other information shown are an approximate interpretation only. Measurements and total areas do not include or account for wall thickness or roof area under eaves. Crib Creative will not be held liable or responsible for any error, omission, misrepresentation or use of any information shown on the final floor plan. Not to be used for any other purpose. www.cribcreative.com.au

Building Inspection Report



The Inspection Agency
PO Box 124
Hillarys WA 6923
Ph: 1800 952 959
Builder Registration 104190

Market Ready Pre Sale Summary



Address: 10 Fermoy Link Darch

Built Circa 2007

Inspectors opinion: The primary structural elements of the house are in a sound condition and performing as expected for a building of similar age and construction.

Incidence of Major Primary structural defects:	None
Incidence of Secondary defects (maintenance):	Some
Overall condition:	Within the average for age.

There were no defects to primary structural elements identified on the day of the inspection.
There were no live Termites found on the day of the inspection.

Date: September 12th, 2025

Report number: TIA17548

Please contact The Inspection Agency on 0402 413 507 should you have any additional questions

NOTE: This summary must be read in conjunction with the attached reports.

Property Inspection Report

Provided By

**THE INSPECTION
AGENCY**

PO Box 124, Hillarys, WA, 6923
www.inspectionagency.com.au

Email: nick@inspectionagency.com.au
Phone: 0437 956 260



10 Fermoy Link, Darch, 6065

Inspection prepared for: Realmark North Coastal

Date of Inspection: 12/9/2025 Time: 9:00 AM

Weather: Sunny 19C

Inspector: Nick Jacques

Details of a Pre Purchase Building Inspection

The purpose of a pre purchase building inspection: To provide advice to a prospective purchaser or other interested party regarding the condition of the property at the time of the inspection. The advice is limited to the reporting of the condition of the building elements and services as set out in Australian Standard AS4349.1-2007 Appendix A.

The scope of a pre purchase building inspection: The inspection shall comprise visual assessment of the property to identify major defects and to form an opinion regarding the general condition of the property at the time of the inspection.

An estimate of the cost of rectification of defects is outside the scope of the Australian Standard and therefore does not form part of this inspection report.

If the property being inspected is part of a strata or company title, the inspection is limited to the interior and the immediate exterior of the particular residence being inspected. It does not cover common property.

Acceptance criteria: The building shall be compared with a building that was constructed in accordance with the generally accepted practice at the time of construction and which has been maintained such that there has been no significant loss of strength and serviceability. An Inspection Report shall contain sufficient data to enable a similarly suitably qualified inspector, who was not involved in the inspection, to check the report and independently verify the conclusions reached by the original inspector.

Changes to the inspection agreement: It is acknowledged that above purpose, scope, acceptance criteria and the terms and conditions at the end of this report and as published on The Inspection Agency's web site make up the inspection agreement and that no changes have been made to this agreement unless agreed in writing by both parties.

Properties being inspected do not "Pass" or "Fail." - The report is based on an inspection of the visible portion of the structure. Important - Please Read Carefully. You will note in the report there is set of boxes next to each section with the following written options across the top: MAINT - PREV - MONIT - DEFR - **DEFIC**

These are the definitions of these terms which may be selected:

MAINT - MAINTENANCE: A system or component other than a primary structural member requiring maintenance would benefit from minor repair, service, attention or improvement at this time. This may include but not limited to patching, trimming, painting, cleaning, or in some instances a system service by an appropriate specialist.

PREV - PREVENTATIVE: Any improvement to an area, system, component or condition that would help prevent an issue from occurring in the future.

MONIT - MONITOR: An area, condition, system or component that is in need of monitoring appears to be functioning as intended and capable of safe usage in its present condition; however, the inspector's suggests evaluation in the future which would confirm if further action is required.

DEFR - DEFERRED: An area, system, component or condition that is listed as deferred is one that could not be operated or inspected for the reason stated in the report, and may require further evaluation. These may also be items outside our standard of practice, inaccessible or not functional. If required deferred items should be checked prior to settlement during the pre-settlement inspection.

DEFIC - DEFICIENT: A system or primary structural component marked as deficient is one that requires the attention by the purchaser, seller or agent. This would be the discovery of a deficiency on the Property, as outlined in the report. This section should be seen as an alert that further action is required.

Disclaimers

Asbestos

No inspection for asbestos was carried out at the property and no report on the presence or absence of asbestos is provided. If during the course of the inspection material containing asbestos happened to be noticed then this may be noted. Buildings built prior to 1982 may have wall and/or ceiling sheeting and other products including roofing, eaves and fencing that contains asbestos. These products should be fully sealed. for further information about asbestos in the home refer to: <http://www.australianasbestosnetwork.org.au/asbestos-todays>

Electrical

Inspection of power points, lights, RCD's and infrastructure cabling is explicitly excluded from this inspection and report. The Electrical Safety regulations Section 19.1 states that any evaluation, testing or comment, on such items must be that of a licensed electrical contractor. If you have in any doubt about the electrical infrastructure of the home then we can arrange an independent electrical inspection for you at an additional cost.

Wood destroying insects and pests

In this report, no inspection for rodents, pests, termites or other wood destroying insects or organisms or the possibility of hidden damage or potential health hazards caused by the presence of these pests and wood destroying insects was carried out at the property and no report on the presence or absence of pests and wood destroying insects is provided. We recommend that you have your home inspected by a qualified pest inspection professional to provide a pest inspection in accordance with the latest revision of AS 4349.3

Methamphetamine or other residual drugs

No inspection for residual methamphetamine (ice) or other illicit drug residue was carried out as part of this inspection. If you have any concerns about the previous use, or residual presence of such we can offer a service of swab tests at an additional cost even after settlement has taken place.

Mould (Mildew and non wood decay fungi)

No inspection for mould was carried out at the property and no report on the presence or absence of mould is provided. Mildew and non wood decay fungi is commonly known as mould. Mould and their spores may cause health problems or allergic reactions such as asthma and dermatitis in some people. If in the course of this inspection mould is noticed then this may be noted in the comments section of the appropriate item within this report. If mould is noted or if you are worried about the possibility of mould be present you should seek the advice of a suitably qualified professional. We can recommend moisture proofing services however we have no affiliation nor offer any warranties to those third party services. Your local council, State or Commonwealth Health Departments can also provide you with assistance.

Swimming Pools

As per AS 4349.1-200, Swimming Pools/Spas are not part of this building report. We recommend a pool expert should be consulted to examine the pool barrier and the general condition of the pool, equipment and plumbing. We do offer a pool safety inspection which covers the standard for pool fencing however we do not provide a pool barrier compliance certificate. Only your local council can provide this certification. This inspection can be booked on our web site.

Septic Tanks and Treatment Plants

All septic tank sewer systems and treatment plants should be inspected by a licensed plumber as this is not reported on in this Inspection Report.

For more information about the extent of reporting please read our Terms & Conditions which were provided to you as part of our confirmation of booking communication.

Summary Of Major Defects And Safety Hazards

The summary below consists of significant defects. The summary is not a complete listing of all the findings in the report, and reflects the opinion of the inspector. Please review all of the pages of the report as the summary alone does not explain all the issues. Any items within the report marked as deferred in the category box, we were either unable to inspect or are not items that we inspect as part of our inspection process.

If there are no items listed below, it indicates that there are no items which require attention.

.....

Electrical Safety		
Page 12	Smoke Alarms	<ul style="list-style-type: none">• Smoke alarms are out of date and need to be replaced. Legislation now states that hardwired smoke alarms must be under 10 years old and positioned relative to living and sleeping areas. Installation of new smoke alarms is required to be carried out a licensed electrical contractor at the vendors expense.

Summary

Structural Summary

MAINT	PREV	MONIT	DEFR	DEFIC

• As requested, The Inspection Agency has conducted a visual pre purchase structural inspection of the residence named on the front of this report. The inspection and this report have been undertaken in accordance with the Terms and conditions within this report which were also provided to you at the time of confirmation of the booking.

THE INCIDENCE OF MAJOR DEFECTS:

No major structural defects to primary structural elements were sighted at the time of the inspection.

THE INCIDENCE OF MINOR DEFECTS:

The incidence of minor defects (maintenance items) in this residential building as compared with similar buildings is considered within the Average.

THE OVERALL CONDITION OF THIS DWELLING:

The overall condition of this residential dwelling in the context of its age, type and general expectations of similar properties is within the Average.

Please Note: This is a general appraisal only and cannot be relied upon on its own. Read the report in its entirety.

Rectification Work:

• Major Structural Defects does not include any non-structural element, e.g., roof plumbing and roof covering, general gas, water and sanitary plumbing, electrical wiring, partition walls, cabinetry, windows, doors, trims, fencing, minor structures, non-structural damp issues, ceiling linings, floor coverings, decorative finishes such as plastering, painting, tiling etc., general maintenance, or spalling of masonry, fretting of mortar or rusting of primary structural elements

Vendor Inspection

Notice to Prospective Purchaser

Materials:

• Vendor Inspection - This independent inspection report has been prepared on behalf of the owner of the home to provides information to prospective buyers in relation to the property.

The report is not a guarantee in relation to the property. It is a limited opinion of condition of the inspected home at the time of inspection. The inspection and report is undertaken for the client named on the report. No responsibility is accepted to any third party.

Rights relating to this report cannot be assigned to a third party unless expressly approved by The Inspection Agency. Such assignment will be at an additional cost to the buyer.

Inspection Details

Inspected Components

A visual inspection was carried out on the following structural and electrical components to the Australian Standards AS4349.1-2007 Appendix A:

- Foundations.
- Internal walls.
- External walls.
- Ceiling structure.
- Internal roof structure.
- Ceilings.
- Roof covering.
- External structures.
- Presence of Residual Current Devices (RCD's).
- Presence of 240v hard wired smoke alarms.
- Observations of what was visible to the inspector only at the time of the inspection.

Components not inspected

The following items were not inspected:

- Plumbing, internal and external.
- Fixed plumbing and electrical and gas appliances.
- General electrical.

Restricted Access

- Access to some items such as doors, windows, wall and floor surfaces, appliances and cabinet interiors may be restricted by furniture or personal belongings. These items are excluded from this inspection report.

Property Information

This report is not a certificate of compliance for council regulations, or correct boundary placement. It does not detect, or report on illegal or unauthorised building, plumbing or electrical work. The inspector always assumes that work had been undertaken to current approvals, rules and regulations at that time.

Type

- Basic - Structural condition inspection to AS4349.1-2007 Appendix A

Reason

- Pre-listing Inspection

Property Information

MAINT PREV MONIT DEFR DEFIC

--	--	--	--	--

Deferred Items:

- A spa was noted. This was not included as part of the inspection process. You should have the seller provide you with instructions on the use of the pool and accessories at your final inspection.

Wall type

Materials:

- The construction is a single storey double brick.

Roof type

Materials:

- The roof covering material cement tile.

Home Orientation

Observation:

- The front of the home is facing East.

Interior Areas

Interior areas consist of all internal rooms. The inspection is a visual inspection of all exposed walls, ceilings and floors. Doors and windows will also be investigated for damage and normal operation. This inspection will report on visible damage, and moisture problems if seen. Personal items in the rooms may prevent the inspector from viewing all areas, as the inspector will not move personal items including furniture, linen or cupboard contents, carpet and rugs. Wall surfaces are hand made as well as painting and there will always be minor discrepancies that are to be expected and are acceptable.

Wall Observations

MAINT PREV MONIT DEFR DEFIC

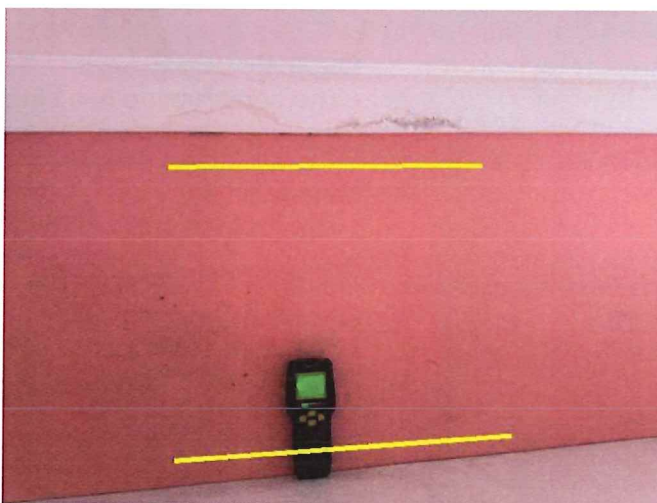
X				
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Materials:

- Plastered walls appear to be in a generally satisfactory condition.

Observations:

- Photos are indicative only and not limited.
- Due to normal movement within the property or foundations as they settle, cracks have appeared at various locations within the home. These cracks do not appear to have affected the overall structural integrity of the property and are within acceptable tolerances. Generally patching and painting will suffice.
- There is evidence of dampness at the base of the wall adjacent to the family shower recess. This is most likely due to the tile joints (grout) becoming porous, or small cracks occurring. We recommend that the shower recess is re sealed. This does not appear to have affected the structural integrity of the masonry walls in any way. Repairs to wall surfaces can be carried out as general maintenance. There is no evidence to suggest that this is a plumbing issue.
- Moisture mark to front bedroom wall noted - tested damp at time of inspection. Likely residual moisture from adjacent gutter overflowing in the past. Recommend monitoring and if required engaging a qualified roof plumber to evaluate.



Ceiling Observations

MAINT	PREV	MONIT	DEFR	DEFIC
X				

Materials:

- Plasterboard gyprock ceilings appear to be in a generally satisfactory condition.

Observations:

- Photos are indicative only and not limited.
- The ceiling has minor hairline joint cracks between the joints of the sheets in some locations. This is normally due to minor movement in the roof structure. This does not appear to have affected the structural integrity of the ceilings but may require some maintenance in the future.
- Moisture mark to front bedroom ceiling noted - tested dry at time of inspection.

Likely from adjacent gutter overflowing in the past. Recommend monitoring and if required engaging a qualified roof plumber to evaluate.





Doors

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials:

- The interior doors function satisfactorily.
- The exterior doors function satisfactorily.

Window Observations

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials:

- Aluminum framed windows appeared to be in a generally satisfactory condition.

Wardrobe Observations

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials:

- The wardrobes were in serviceable condition.

Bathroom and Toilets

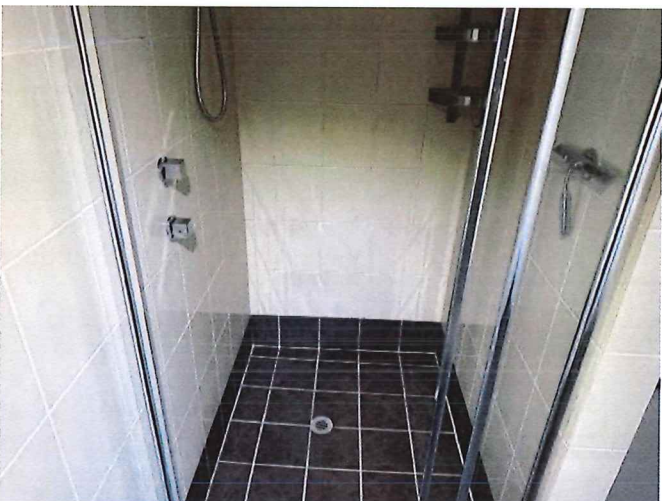
Observations

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Cabinets appeared to be in satisfactory condition for their age.
- Shower walls - See "Internal Areas" "Wall Observations" for further details.

Recommendations:

- As a preventative measure, we always recommend sealing tile grout and joints to prevent water infiltration into walls. Grout should be resealed every 5 years.



Kitchen

Building inspectors are not licensed plumbers or electricians and any comments made are of observation at the time of the inspection. Any testing that is done on plumbing electrical and gas items is restricted to turning the fixture or fitting on and off using the normal operator controls. We do not check for the efficiency, correct wiring or plumbing of these items. We recommend that a qualified contractor be engaged to make comment on any anomaly to do with electrical plumbing and gas that is raised in this report.

Observations

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Materials:
- Cabinets appeared to be in satisfactory condition.



Laundry

Observations

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Cabinets appeared to be in satisfactory condition.



Garage

Garage and Shed

MAINT	PREV	MONIT	DEFR	DEFIC
X				

Materials:

- The attached brick garage appears structurally sound.

Observations:

- The ceiling sheeting in the garage has cracks between some of the sheets, and evidence of past repairs. This does not appear to be structurally significant and can be maintained normally.



Electrical Safety

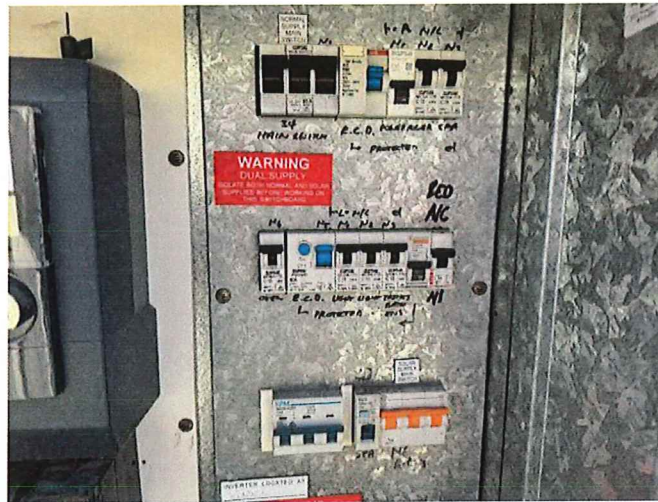
With electrical it should be noted that we are not licensed electricians and any comments made are not that of an electrician. Any testing that is done on electrical items is restricted to turning the fixture or fitting on and off using the normal operator controls. We do not check for the efficiency, correct wiring these items. Infrastructure wiring is expressly excluded from this inspection. We recommend that a qualified contractor be engaged to make comment on any matter that is raised in this report or not when dealing with electrical matters.

RCD's

MAINT	PREV	MONIT	DEFR	DEFIC

Materials:

- There are at least two RCD's covering the power and lighting circuits.



Smoke Alarms

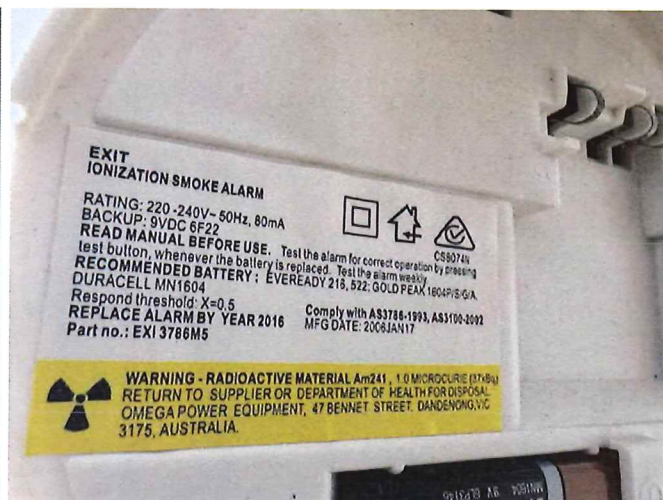
MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Observations:

- Smoke alarms are out of date and need to be replaced. Legislation now states that hardwired smoke alarms must be under 10 years old and positioned relative to living and sleeping areas. Installation of new smoke alarms is required to be carried out a licensed electrical contractor at the vendors expense.



Expired 2016.



Expired 2016.

Foundations

Foundation Perimeter

MAINT	PREV	MONIT	DEFR	DEFIC

Observations:

- Sections of the concrete slab that were visible to the inspector appeared satisfactory.
- Due to the fact that the concrete slab is usually covered by floor coverings, most areas of the concrete slab are not visible. Common cracking of the concrete slab is usual as part of the curing process and general settlement. Reinforced steel (REO) is within the concrete slab to maintain the integrity.
- All concrete floor slabs experience some degree of cracking due to shrinkage in the drying process. In most instances floor coverings prevent recognition of cracks or settlement in all but the most severe cases. Where carpeting and other floor coverings are installed, the materials and condition of the flooring underneath cannot be determined.

Internal Roof Space

Inspection of the roof space is limited to areas accessible to the inspector. Some areas that are visually restricted but not limited to the eaves due to the low pitch, Areas covered by Insulation and or air conditioner duct work etc. Damage and or defects may be present and not be detected in areas where visual inspection was limited, obstructed or access could not be gained. Our inspection does not warrant or guarantee the roof against leakage.

Roof Observations

MAINT	PREV	MONIT	DEFR	DEFIC

Comments:

- Access was available through a manhole in the hallway.
- Limited visibility and access due to insulation and pitch.

Insulation

MAINT PREV MONIT DEFR DEFIC

--	--	--	--	--

Materials:

- Fibreglass batts insulation noted in the accessible ceiling space appears to be of adequate coverage.

**Ceiling Structure**

MAINT PREV MONIT DEFR DEFIC

--	--	--	--	--

Materials:

- The timber ceiling joist structure appeared satisfactory. Inspection was limited and based on what was visually accessible inside the roof and scanning the ceilings throughout the home. The placement of insulation on the ceiling can be a restriction.

Roof

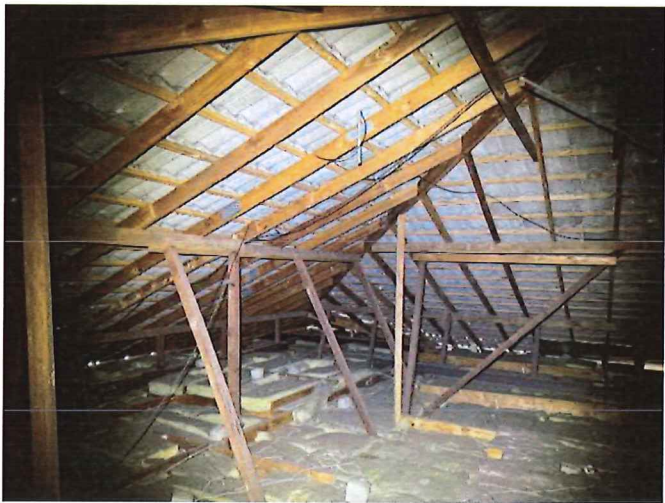
The following is an opinion of the general quality and condition of the roofing material. The inspector cannot and does not offer an opinion or warranty as to whether the roof leaks or may be subject to future leakage. The only way to determine if a roof is watertight is to make observations during prolonged rainfall. If any sections of the roof were inaccessible due to the method of construction or other factor, further investigations should be carried out prior to purchase.

Roof Structure

MAINT PREV MONIT DEFR DEFIC

--	--	--	--	--

- The inspection covered the unobstructed and readily accessible areas of the roof space, where the minimum area of accessibility was not less than 600 mm high by 600 mm wide (or where this clearance was not available, areas within the inspector's unobstructed line of sight and within arm's length).
- The timber roof structure appeared satisfactory.



Roof Covering

MAINT	PREV	MONIT	DEFR	DEFIC
X				

Condition:

- The tiled roofing material appeared to be in satisfactory condition for age.
- Inspected from within the roof space.
- Inspected at various locations around the home from a ladder.

Observations:

- There are several chipped tiles, but none of these appear to warrant replacement or repair of the tiles.
- There are previous silicone repairs noted. These tiles should be monitored, and ideally at some stage replaced as silicone can deteriorate over time.





Flashing

MAINT	PREV	MONIT	DEFR	DEFIC

Condition:

- Flashing is an impervious material (usually galvanised sheet metal) that comes in a variety of shapes and sizes and is used to cover, waterproof, and direct water away from roof penetrations and from valleys and intersections between the roof covering and other materials.

Appears to be in satisfactory condition.

Roof Drainage

MAINT	PREV	MONIT	DEFR	DEFIC
X				

Observations:

- The gutters should be regularly cleared of debris to ensure the proper flow of water from the roof.



Exterior Surfaces

Inspection of the exterior walls is limited to areas accessible to the inspector. Damage and or defects may be present and not be detected in areas where visual inspection was limited, obstructed or access could not be gained. Some items that may restrict access but not limited to are vegetation

and stored items etc

Eaves and Fascia

MAINT	PREV	MONIT	DEFR	DEFIC

Materials:

- The eaves are in satisfactory condition.
- Fascia covering the ends of rafter or truss tails appeared to be in generally serviceable condition at the time of the inspection. Notable exceptions will be listed in this report.

Walls

MAINT	PREV	MONIT	DEFR	DEFIC
X				

Materials:

- Wall covering is in an acceptable condition.

Observations:

- Photos are indicative only and not limited.
- Due to normal movement within the property or foundations as they settle, cracks have appeared on some of the external walls of the house. These cracks do not appear to have affected the overall structural integrity of the property and are within acceptable tolerances. Generally patching and painting will suffice.
- There are lintels in various locations that have surface rust. If these lintels continue to rust they may expand causing horizontal cracks in the brickwork being supported. It is recommended that the lintels are prepared and painted with a rust guard coating to prevent any further rust from occurring.



Grounds

Driveway and Paths

MAINT	PREV	MONIT	DEFR	DEFIC

Condition:

- Pathways in reasonable shape for age and wear. No major deficiencies observed.
- Driveway in reasonable shape for age and wear. No major deficiencies observed.

Lot Grading and Drainage

MAINT	PREV	MONIT	DEFR	DEFIC

Observations:

- The site appears to be adequately drained.

Fence

MAINT	PREV	MONIT	DEFR	DEFIC

Condition:

- The perimeter fence appeared functional.

Patio & Pergola

MAINT	PREV	MONIT	DEFR	DEFIC
X				

Condition:


- Patio / Alfresco appears in satisfactory and functional condition. Appears to be structurally sound.
- Pergola appears in satisfactory and functional condition with normal wear for its age. Appears to be structurally sound.

Observations:

- There is evidence of past moisture damage and repair to al fresco ceiling.



Thank You for the opportunity to undertake this inspection for you.



Nick Jacques
Dip. Building and Construction

The Inspection Agency
Builders Reg. BC104190

Inspection Terms and conditions - 2023

SPECIAL CONDITIONS

1. The Building Consultant reserves the right to reject any request for inspection at the consultant's absolute discretion. In this event, any fees, deposit or other monies paid by the client will be refunded.
2. The Building Consultant shall not be liable for failure to perform any duty or obligation that the consultant may have under this agreement, where such failure has been caused by inclement weather, industrial disturbance, inevitable accident, inability to obtain labour or transportation, or any cause outside the reasonable control of the consultant.
3. The Inspection Agency has partnered with Austoria Pty Ltd (APL) as a sub-contractor to conduct building structural and timber pest or termite inspections when booked. APL has independent Professional Indemnity Insurance. The client acknowledges that The Inspection Agency is indemnified from any claim made as a result of the structural or timber pest inspections carried out by APL, and any dispute will be handled by APL and their representatives.

SERVICE - STRUCTURAL

As requested by the Client; the inspection carried out by the Building Consultant (the Consultant) is a "Standard Property Report" (the Report).

PURPOSE OF INSPECTION The purpose of the inspection is to provide advice to the Client regarding the condition of the Building and Site at the time of inspection.

SCOPE OF INSPECTION The Report only covers and deals with any evidence of: Major Defects in the condition of Primary Elements including Structural Damage and Conditions Conducive to Structural Damage, any Major Defect in the condition of Secondary Elements and Finishing Elements, collective (but not individual) Minor Defects, and any Serious Safety Hazard discernible at the time of inspection. The inspection is limited to the Readily Accessible Areas of the Building and Site (see Note below) and is based on a visual examination of surface work (excluding furniture and stored items), and the carrying out of Tests.

Note. With strata and company title properties, the inspection is limited to the interior and the immediate exterior of the particular residence inspected. Common property is not inspected.

ACCEPTANCE CRITERIA The building is to be compared with a building that was constructed in accordance with the generally accepted practice at the time of construction and which has been maintained such that there has been no significant loss of strength and serviceability.

Unless noted in "Special Conditions or Instructions", the Report assumes that the existing use of the building will continue.

The Report only records the observations and conclusions of the Consultant about the readily observable state of the property at the time of inspection. The Report therefore cannot deal with:

(a) possible concealment of defects, including but not limited to, defects concealed by lack of accessibility, obstructions such as furniture, wall linings and floor coverings, or by applied finishes such as render and paint, and

(b) undetectable or latent defects, including but not limited to, defects that may not be apparent at the time of inspection due to seasonal changes, recent or prevailing weather conditions, and whether or not services have been used some time prior to the inspection being carried out.

These matters outlined above in (a) and (b) are excluded from consideration in the Report.

If the Client has any doubt about the purpose, scope and acceptance criteria on which the Report is to be based please discuss your concerns with the Consultant before ordering the Report or on receipt of the Report.

The Client acknowledges that, unless stated otherwise, the Client as a matter of urgency should implement any recommendation or advice given in the Report.

The Client acknowledges:

1. A visual only inspection may be of limited use to the Client. In addition to a visual inspection, to thoroughly inspect the Readily Accessible Areas of the property requires the Consultant to carry out when ever necessary appropriate Tests.
2. The Report does not include the inspection and assessment of items or matters outside the scope of the requested inspection and report. Other items or matters may be the subject of a special-purpose inspection report, which is adequately specified (see Exclusions below).
3. The Report does not include the inspection and assessment of items or matters that do not fall within the Consultant's direct expertise.
4. The inspection only covers the Readily Accessible Areas of the property. The inspection does not include areas, which are inaccessible, not readily accessible or obstructed at the time of inspection. Obstructions are defined as any condition or physical limitation which inhibits or prevents inspection and may include – but are not limited to – roofing, fixed ceilings, wall linings, floor coverings, fixtures, fittings, furniture, clothes, stored articles/materials, thermal insulation, sarking, pipe/duct work, builder's debris, vegetation, pavements or earth.
5. Australian Standard AS4349.1-2007 Inspection of Buildings, Part 0: General Requirements recognises that a property report is not a warranty or an insurance policy against problems developing with the building in the future
6. The Report is to be produced for the use of the Client. The Consultant is not liable for any reliance placed on the Report by any third party.
7. If during the course of the inspection the consultant utilises an RPA (remote piloted aircraft), this does not replace any physical inspection of the area. Photographic reference from an RPA is provided as a general overview of an area that may not readily accessible and cannot be considered to be a report on the condition or structural adequacy of the area in question.

EXCLUSIONS

The Client acknowledges that unless agreed in writing prior to the inspection, the Report does not cover or deal with:

- (i) any individual Minor Defect
- (ii) solving or providing costs for any rectification or repair work
- (iii) the structural design or adequacy of any element of construction
- (iv) detection of wood destroying insects such as termites and wood borers
- (v) the operation of fireplaces and chimneys
- (vi) any services including building, engineering (electronic), fire and smoke detection or mechanical
- (vii) lighting or energy efficiency
- (viii) any swimming pools and associated pool equipment or spa baths and spa equipment or the like
- (ix) any appliances such as dishwashers, ovens, stoves and ducted vacuum systems
- (x) a review of occupational, health or safety issues such as asbestos content, the provision of safety glass or the use of lead-based paints
- (xi) a review of environmental or health or biological risks such as toxic mould
- (xii) whether the building complies with the provisions of any building Act, code, regulation(s) or by-laws
- (xiii) whether the ground on which the building rests has been filled, is liable to subside, swell or shrink, is subject to landslip, earthquakes or tidal inundation, or if it is flood prone, and
- (xiv) in the case of strata and company title properties, the inspection of common property areas or strata/company records.

Any of the above matters may be the subject of a special-purpose inspection report, which is adequately specified and undertaken by an appropriately qualified inspector.

DEFINITIONS

Client means the person or persons, for whom the Inspection Report was carried out or their Principal (i.e. the person or persons for whom the report is being obtained).

Building Consultant means a person, business or company who is qualified and experienced to undertake a prepurchase inspection in accordance with Australian Standard AS 4349.1-2007 Inspection of Buildings. Part 1: Pre-Purchase Inspections –Residential Buildings. The consultant must also meet any Government licensing requirement, where applicable.

Building and Site means the inspection of the nominated residence together with relevant features including any car accommodation, detached laundry, ablution facilities and garden sheds, retaining walls more than 700 mm high, paths and driveways, steps, fencing, earth, embankments, surface water drainage and stormwater run-off within 30 m of the building, but within the property boundaries. In the case of strata and company title properties, the inspection is limited to the interior and immediate exterior of the nominated residence and does not include inspection of common property.

Readily Accessible Areas means areas which can be easily and safely inspected without injury to person or property, are up to 3.6 metres above ground or floor levels or accessible from a 3.6 metre ladder, in roof

spaces where the minimum area of accessibility is not less than 600 mm high by 600 mm wide and subfloor spaces where the minimum area of accessibility is not less than 400 mm high by 600 mm wide, providing

the spaces or areas permit entry. Or where these clearances are not available, areas within the consultant's unobstructed line of sight and within arm's length.

Structure means the load bearing part of the building, comprising the Primary Elements.

Primary Elements means those parts of the building providing the basic load bearing capacity to the Structure, such as foundations, footings, floor framing, load bearing walls, beams or columns. The term 'Primary Elements' also includes other structural building elements including those that provide a level of personal protection such as handrails, floor to floor access such as stairways, and the structural flooring of the building such as floorboards.

Structural Damage means a significant impairment to the integrity of the whole or part of the Structure falling into one or more of the following categories:

(a) Structural Cracking and Movement –major (full depth) cracking forming in Primary Elements resulting from differential movement between or within the elements of construction, such as foundations, footings, floors, walls and roofs.

(b) Deformation –an abnormal change of shape of Primary Elements resulting from the application of load(s).

(c) Dampness –the presence of moisture within the building, which is causing consequential damage to Primary Elements.

(d) Structural Timber Pest Damage –structural failure, i.e. an obvious weak spot, deformation or even collapse of timber Primary Elements resulting from attack by one or more of the following wood destroying agents: chemical delignification fungal decay, wood borers, and termites.

Conditions Conducive to Structural Damage means noticeable building deficiencies or environmental factors that may contribute to the occurrence of Structural Damage.

Secondary Elements means those parts of the building not providing load bearing capacity to the Structure, or those nonessential elements which, in the main, perform a completion role around openings in Primary Elements and the building in general such as non load bearing walls, partitions, wall linings, ceilings, chimneys, flashings, windows, glazing or doors.

Finishing Elements means the fixtures, fittings and finishes applied or affixed to Primary Elements and Secondary Elements such as baths, water closets, vanity basins, kitchen cupboards, door furniture, window hardware, render, floor and wall tiles, trim or paint. The term 'Finishing Elements' does not include furniture or soft floor coverings such as carpet and vinyl.

Major Defect means a defect of significant magnitude where rectification has to be carried out in order to avoid unsafe conditions, loss of utility or further deterioration of the property.

Minor Defect means a defect other than a Major Defect.

Serious Safety Hazard means any item that may constitute an immediate or imminent risk to life, health or property. Occupational, health and safety or any other consequence of these hazards has not been assessed.

Tests means where appropriate the carrying out of tests using the following procedures and instruments:

(a) Dampness Tests means additional attention to the visual examination was given to those accessible areas which the consultant's experience has shown to be particularly susceptible to damp problems.

Instrument testing using electronic moisture detecting meter of those areas and other visible accessible elements of construction showing evidence of dampness was performed.

(b) Physical Tests means the following physical actions undertaken by the consultant: opening and shutting of doors, windows and draws; operation of taps; water testing of shower recesses; and the tapping of tiles and wall plaster, then the inspection was based on the general knowledge and experience of the Consultant.

Unless noted in "Special Conditions or Instructions", this Report assumes that the existing use of the building will continue.

This Report only records the observations and conclusions of the Consultant about the readily observable state of the property at the time of inspection. This Report therefore cannot deal with:

(a) possible concealment of defects, including but not limited to, defects concealed by lack of accessibility, obstructions such as furniture, wall linings and floor coverings, or by applied finishes such as render and paint; and

(b) undetectable or latent defects, including but not limited to, defects that may not be apparent at the time of inspection due to seasonal changes, recent or prevailing weather conditions, and whether or not services have been used some time prior to the inspection being carried out.

These matters outlined above in (a) &(b) are excluded from consideration in this Report.

If the Client has any doubt about the purpose, scope and acceptance criteria on which this Report is to be based please discuss your concerns with the Consultant before ordering the Report or on receipt of this Report.

Timber Pest Inspection Report

Provided By



PO Box 124, Hillarys, WA, 6923
www.inspectionagency.com.au

Email: reports@inspectionagency.com.au
Phone: 0437 956 260



10 Fermoy Link, Darch, 6065

Inspection prepared for: Realmark North Coastal

Date of Inspection: 12/9/2025 Time: 9:00 AM

Weather: Sunny 19C

Inspector: Nick Jacques

An Overview of the Timber Pest Inspection

A timber pest inspection is a non-invasive visual examination of a property, performed for a fee, which is designed to identify observed material defects within specific components of the property. It is intended to assist in evaluation of the overall condition of the property. The inspection is based on observation of the visible and apparent condition of the structure and its components on the date of the inspection and not the prediction of future conditions.

A timber pest inspection will not reveal every concern that exists or ever could exist, but only those material defects observed on the day of the inspection. An Inspection report shall describe and identify in written format the inspected systems, structures, and components of the property and shall identify material defects observed.

Inspection reports may contain recommendations regarding conditions reported or recommendations for correction, monitoring or further evaluation by professionals, but this is not required. Within the report you will find items in **RED**. These are items which have been flagged as deficient and require attention. For your safety and liability, we recommend that you hire only licensed contractors when having any work done. Note: If there are no comments in **RED** below, there were no **CRITICAL** system or safety concerns with this property at the time of inspection.

Please carefully read your entire Inspection Report. Call us after you have reviewed your report, so we can go over any questions you may have. Remember, when the inspection is completed and the report is delivered, we are still available to you for any questions you may have, throughout the entire closing process.

Properties being inspected do not "Pass" or "Fail." - The following report is based on an inspection of the visible portion of the structure. Important - Please Read Carefully. You will note in the report there is set of boxes next to each section with the following written options across the top: MAINT - PREV - MONIT - DEFR - **DEFIC**

These are the definitions of these terms which may be selected:

MAINT - MAINTENANCE: A system or component requiring maintenance appears to be functioning as intended, but would benefit from minor repair, service, attention or improvement at this time. This may include patching, trimming, painting, cleaning, or in some instances a system service by an appropriate specialist.

PREV - PREVENTATIVE: Any improvement to an area, system, component or condition that would help prevent an issue from occurring in the future.

MONIT - MONITOR: An area, condition, system or component that is in need of monitoring appears to be functioning as intended and capable of safe usage in its present condition; however, the inspector's suggests evaluation in the future which would confirm if further action is required.

DEFR - DEFERRED: An area, system, component or condition that is listed as deferred is one that could not be operated or inspected for the reason stated in the report, and may require further evaluation. These may also be items outside our standard of practice, inaccessible or not functional. If required deferred items should be checked prior to settlement during the pre-settlement inspection.

DEFIC - DEFICIENT: A system or component marked as deficient is one that requires the attention of the purchaser, seller or agent. This would be the discovery of Timber Pests on the Property, as outlined in the report. This section should be seen as an alert that further action is required to manage Timber Pests.

Items Requiring Attention - Summary

Vendor Inspection

1. Comments

MAINT	PREV	MONIT	DEFR	DEFIC

Please note:

- The independent inspection report has been prepared on behalf of the vendor to provide information to prospective purchasers in relation to the property.

The report does not constitute a guarantee in relation to the property. It is a limited opinion of condition of the inspected property on the day and time of inspection. The inspection and report is undertaken for the Client named on the report. No responsibility is accepted to any third party.

Rights relating to this report may be passed to a third party by way of purchasing the report from The Inspection Agency.

Inspector

1. Your Inspector

Your Inspector:

- Nick Jacques

Contact Information:

Email: nick@inspectionagency.com.au

Mobile: 0437 956 260

Inspection Type

1. Inspection Type

Type:

- Timber Pest Inspection in accordance with AS4349.3-2010

Reason:

- Vendor Inspection

Inspection Details

1. Attendance

In Attendance:

- Client not present

2. Occupancy

Occupancy:

- Vacant - part furnished.
- Access to some items such as: windows, wall/floor surfaces, tiled surfaces, cabinet/wardrobes interiors, may be restricted by furniture, personal belongings or floor coverings. Any such items are excluded from this inspection report.

3. Inspection Limitations

Deferred

- 1. Entering attics that are heavily insulated can cause damage to the insulation and framing. Attics with deep insulation cannot be safely inspected due to limited visibility of the framing members upon which the inspector must walk. In such cases, the attic is only partially accessed, thereby limiting the review of the attic from the hatch area only. Inspectors will not crawl the attic area when they believe it is a danger to them or that they might damage the attic insulation or framing. There is a limited review of the attic area viewed from the hatch only in these circumstances.

2. Inspection was not undertaken of any concealed timber frames or structural components which could not be accessed. Termite damage and/or activity may be present in these areas. It is necessary to be provided with full unobstructed access to these areas in order to determine if pest and/or damage is present.

3. This inspection is accordance with AS 4349.3 does not require inspection and report on drywood termites or mould.

4. Underground inspection is beyond the scope of this inspection process.

5. The inspection maybe limited by but not limited to -roofing, fixed ceilings, wall linings, floor coverings, tiled areas, fixtures, fittings, furniture, clothes, stored items, thermal insulation, sarking, pipe/duct work, builders debris, vegetation, pavements and earth.

Inspection Summary

1. Conclusion

MAINT	PREV	MONIT	DEFR	DEFIC
		X		

Comments:

• Termites, borers & decay/fungus are present in all areas of Australia. No system or process can offer a 100% guarantee against termite attack. Systems, barriers and regular competent inspections should be in place to mitigate and make timber pest activity more visible to avoid economic damage.

• In the inspector's opinion the susceptibility to timber pest attack is considered High.

• This is a summary only and should be read in conjunction with the rest of the report. See the following sections for more information.

Observations:

- Active timber pest were not detected.

2. Termite Observations

MAINT	PREV	MONIT	DEFR	DEFIC
	X			

Comments:

Termites play an important role in breaking down timber substances in our environment. The termite colony's sole function is to seek out new sources of food. Subterranean Termites are defined as the group of termite species that make tunnels through the ground to reach a source of food, which in some cases may be a considerable distance from the nest. The most common location for this group to nest is underground or in concealed areas such as the trunk of a tree, root crown of a tree, or at the base of timber in ground contact such as retaining walls.

Observations:

- There were no live termites found at the property inspected at the date and time of the inspection.

3. Borer Management

MAINT	PREV	MONIT	DEFR	DEFIC

Comments:

- Borer activity is usually determined by the presence of exit holes. Some borer activity and timber decay may exist before the appearance of such exit holes.

Observations:

- No evidence of any wood borers found during the inspection.

4. Wood Decay Management

MAINT	PREV	MONIT	DEFR	DEFIC

Comments:

- Fungal attack starts to occur when the moisture content of the timber reaches 20%. It is at this point that the timber is considered conducive to Termite and borer infestation.

Observations:

- No evidence of any wood decay / fungi present during the inspection.

5. Delignification Management

MAINT	PREV	MONIT	DEFR	DEFIC

Materials:

- Chemical delignification is when the surface of timber has become hairy with wood fibers separating.

Observations:

- No evidence of chemical delignification present during the inspection.

Property Information**1. Home Orientation**

Observation:

- The front of the home is facing East.

2. Structure Style

Style:

- Detached
- Single Family Home

Height:

- Single story

3. Structure Type

Wall Construction:

- Double Brick - with internal cavity
- Roof Covering: Tiles

Type:

- Slab

Areas Inspected - Accessibility

1. Restricted Access

MAINT	PREV	MONIT	DEFR	DEFIC
			X	

Comments:

• Inaccessible areas have not been inspected. These may include, but are not limited to, concealed frame timbers, eaves, wall linings, floor coverings, tiled areas, fences, furniture, stored items and vegetation may conceal evidence of Timber Pest activity. Inaccessible areas at the time of inspection may include:

- Interior and Exterior
- Internal roof space
- Garage - Shed
- Landscaping
- Fences

Conditions Conducive to Timber Pest

1. Excessive Moisture Observations

MAINT	PREV	MONIT	DEFR	DEFIC
X	X	X		

Comments: Termites spend most of their lives in high humidity and temperature conditions within their colony and workings. To maintain the humidity and temperature in their colony they must have reliable and constant supply of moisture. Areas of excessive moisture is therefore a conducive condition to timber pest attack.

Weather conditions at the time of the inspection were damp.

Observations:

- A moisture meter confirmed the presence of excessive moisture in wall adjacent to family shower.
- See 'Grading and Drainage' section of the report for more information.



2. Bridging

MAINT	PREV	MONIT	DEFR	DEFIC
	X	X		

Comments:

- Where a termite barrier is in place "bridging" is the spanning of this barrier so that termites have a path over or around the barrier. "Breaching" of the termite barrier is where a hole or gap exists in the barrier which allow termites a path through the barrier.

Observations:

- See 'Subfloor Space' section of the report for more information.

Subfloor Space

1. Slab Management

MAINT	PREV	MONIT	DEFR	DEFIC
	X	X		

Comments:

- A building constructed on a concrete slab is susceptible to concealed termite entry.
- In order to minimise timber pest attack, slab edges should have a clearance of 75mm and not covered by soil.

Observations:

- Slab edges are covered by garden beds and paving.

Internal Roof Space

1. Roof Observations

MAINT	PREV	MONIT	DEFR	DEFIC
			X	

Comments:

- Access was available through a manhole in the hallway.
- Limited visibility and access due to insulation and pitch.



Interior

1. Wall Condition

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials:

- Plaster walls noted which appeared functional.

2. Ceiling Condition

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials:

- There are plasterboard/gyprock ceilings in the property which appear functional.

3. Window Condition

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Materials:

- Aluminum window frames noted.

Grounds

1. Grading and Drainage

MAINT	PREV	MONIT	DEFR	DEFIC
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Observations:

- It is important to redirect moisture away from the property to limit areas of excess moisture. Faulty gutters and downpipes in poor condition can cause water to seep into the foundations, causing conditions conducive to termites and fungal decay.
- Overflow pipes from air conditioners and water heaters are a source of moisture. It is important to redirect or extend the pipe away from the home into a drain or soak well to avoid moisture soaking into the foundations.

2. Vegetation Condition

MAINT	PREV	MONIT	DEFR	DEFIC
	X	X		

Comments:

- Termites usually construct their nests in or below trees. For that reason, trees that are a susceptible species for infestation need to be monitored as part of any effective termite management programme.

Observations:

- Prune or remove any plants that are in contact or proximity to home to eliminate pathways of wood destroying insects.
- Remove any garden beds abutting the home to eliminate excessive moisture.

3. Garage Condition

MAINT	PREV	MONIT	DEFR	DEFIC
		X		

Comments:

- Garage and shed appeared satisfactory.

Observations:

- Often the gap between the slab in the garage and the slab for the home can be a susceptible area for attack. Monitor this area for termite activity in the future.



Exterior

1. Wall Observations

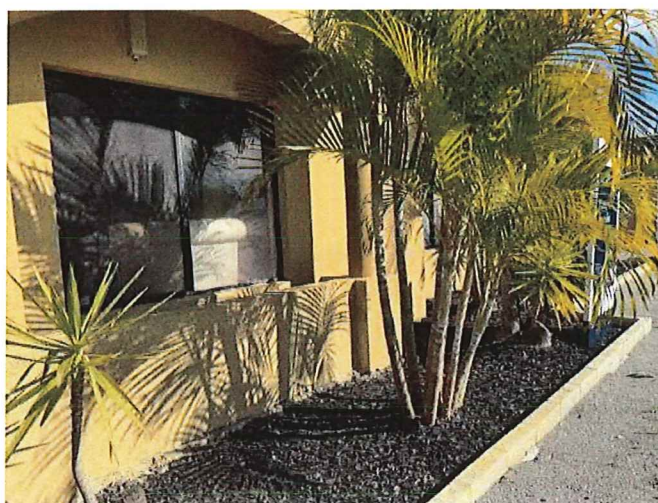
MAINT	PREV	MONIT	DEFR	DEFIC
	X	X		

Materials:

- Brick noted.

Observations:

- There are garden beds which are abutting external walls. This can result in water moisture affecting the structure over time. It is recommended that either the beds be removed or a water barrier be placed between the flower bed and the external walls. If these beds are retained it is important that any watering is directed away from the building and kept to an absolute minimum and is controlled. These are risk area for termite activity.



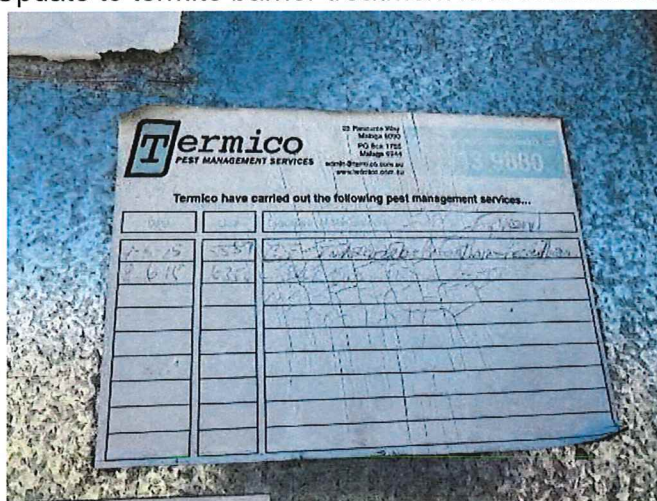
1. Recommendations

MAINT	PREV	MONIT	DEFR	DEFIC
	X	X		

- It is recommended that any available records and associated paperwork from the current property owner is requested with regard to previous treatment.

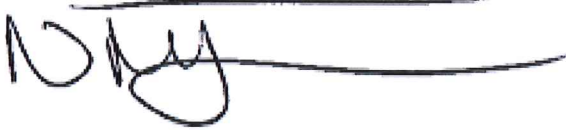
- A termite management plan should be put in place. AS 3660.2 recommends that a routine inspection for termite management purposes be carried out at least annually.
- If termite activity or damage is noted it is possible that further termite damage may be present in concealed areas.
- There is no record of any recent termite barrier treatment to the property.

- Termite inspections are recommended every 12 months.
- Update to termite barrier treatment is recommended.



Thank You

Thank you for the opportunity to undertake this inspection for you.
Sincerely



Nick Jacques
Certified Timber Pest Inspector
CPPPMT3008 CPPPMT3010
0437 956 260
nick@inspectionagency.com.au

Service Agreement

SPECIAL CONDITIONS

The Inspection Agency has partnered with Austoria Pty Ltd to conduct timber pest or termite inspections when booked. Austoria Pty Ltd has independent Professional Indemnity Insurance. The client acknowledges that The Inspection Agency is indemnified from any claim made as a result of the timber pest inspection and any dispute will be handled by Austoria Pty Ltd and their representatives.

A.1 TERMS AND CONDITIONS

SERVICE

As requested by the Client, the inspection carried out by the Timber Pest Detection Consultant ("the Consultant") was a "Pre- Purchase Standard Timber Pest Inspection Report".

PURPOSE - The purpose of this inspection is to assist the Client to identify and understand any Timber Pest issues observed at the time of inspection.

SCOPE OF INSPECTION - This Report only deals with the detection or non detection of Timber Pest Attack and Conditions Conducive to Timber Pest Attack discernible at the time of inspection. The inspection was limited to the Readily Accessible Areas of the Building & Site (see Note below) and was based on a visual examination of surface work (excluding furniture and stored items), and the carrying out of Tests.

Note. With strata and company title properties, the inspection was limited to the interior and the immediate exterior of the particular residence inspected. Common property was not inspected.

ACCEPTANCE CRITERIA - Where possible, the building being inspected was compared with a similar building. To the Consultant's knowledge the similar building used for comparison was constructed in accordance with generally accepted timber pest management practices and has since been maintained during all its life not to attract or support timber pest infestation.

Note. If the building was not comparable to a similar building (e.g. due to unusual design or construction techniques), then the inspection was based on the general knowledge and experience of the Consultant.

Unless noted in "Special Conditions or Instructions", this Report assumes that the existing use of the building will continue.

This Report only records the observations and conclusions of the Consultant about the readily observable state of the property at the time of inspection. This Report therefore cannot deal with:

(a) possible concealment of defects, including but not limited to, defects concealed by lack of accessibility, obstructions such as furniture, wall linings and floor coverings, or by applied finishes such as render and paint; and

(b) undetectable or latent defects, including but not limited to, defects that may not be apparent at the time of inspection due to seasonal changes, recent or prevailing weather conditions, and whether or not services have been used some time prior to the inspection being carried out.

These matters outlined above in (a) & (b) are excluded from consideration in this Report.

If the Client has any doubt about the purpose, scope and acceptance criteria on which this Report is to be based please discuss your concerns with the Consultant before ordering the Report or on receipt of this Report.

The Client acknowledges that, unless stated otherwise, the Client as a matter of urgency should implement any recommendation or advice given in this Report.

LIMITATIONS - The Client acknowledges:

1. This Report does not include the inspection and assessment of matters outside the scope of the requested inspection and report.

2. The inspection only covered the Readily Accessible Areas of the Building and Site. The inspection did not include areas which were inaccessible, not readily accessible or obstructed at the time of inspection. Obstructions are defined as any condition or physical limitation which inhibits or prevents inspection and may include –but are not limited to –roofing, fixed ceilings, wall linings, floor coverings, fixtures, fittings, furniture, clothes, stored articles/materials, thermal insulation, sarking, pipe/duct work, builder's debris, vegetation, pavements or earth.

3. The detection of drywood termites may be extremely difficult due to the small size of the colonies. No warranty of absence of these termites is given.

4. European House Borer (*Hylotrupes bajulus*) attack is difficult to detect in the early stages of infestation as the galleries of boring larvae rarely break through the affected timber surface. No warranty of absence of these borers is given. Regular inspections including the carrying out of appropriate tests are required to help monitor susceptible timbers.

5. This is not a structural damage report. Neither is this a warranty as to the absence of Timber Pest Attack.

6. If the inspection was limited to any particular type(s) of timber pest (e.g. subterranean termites), then this would be the subject of a Special-Purpose Inspection Report, which is adequately specified.

7. This Report does not cover or deal with environmental risk assessment or biological risks not associated with Timber Pests (e.g. toxic mould) or occupational, health or safety issues. Such advice may be the subject of a Special-Purpose Inspection Report which is adequately specified and must be undertaken by an appropriately qualified inspector. The choice of such inspector is a matter for the Client.

8. This Report has been produced for the use of the Client. The Consultant or their firm or company are not liable for any reliance placed on this report by any third party.

EXCLUSIONS - The Client acknowledges:

1. This Report does not deal with any timber pest preventative or treatment measures, or provide costs for the control, rectification or prevention of attack by timber pests. However, this additional information or advice may be the subject of a timber pest management proposal which is adequately specified.

DEFINITIONS

Timber Pest Attack means Timber Pest Activity and/or Timber Pest Damage.

Timber Pest Activity means telltale signs associated with 'active' (live) and/or 'inactive' (absence of live) Timber Pests at the time of inspection.

Timber Pest Damage means noticeable impairments to the integrity of timber and other susceptible materials resulting from attack by Timber Pests.

Major Safety Hazard means any item that may constitute an immediate or imminent risk to life, health or property resulting directly from Timber Pest Attack. Occupational, health and safety or any other consequence of these hazards has not been assessed. Conditions Conducive to Timber Pest Attack means noticeable building deficiencies or environmental factors that may contribute to the presence of Timber Pests

Readily Accessible Areas means areas which can be easily and safely inspected without injury to person or property, are up to 3.6 metres above ground or floor levels, in roof spaces where the minimum area of accessibility is not less than 600 mm high by 600 mm wide and subfloor spaces where the minimum area of accessibility is not less than 400 mm high by 600 mm wide, providing the spaces or areas permit entry. The term 'readily accessible' also includes:

(a) accessible subfloor areas on a sloping site where the minimum clearance is not less than 150 mm high, provided that the area is not more than 2 metres from a point with conforming clearance (i.e. 400 mm high by 600 mm wide); and

(b) areas at the eaves of accessible roof spaces that are within the consultant's unobstructed line of sight and within arm's length from a point with conforming clearance (i.e. 600 mm high by 600 mm wide).

Client means the person or persons for whom the Timber Pest Inspection Report was carried out or their Principal (i.e. the person or persons for whom the report was being obtained).

Timber Pest Detection Consultant means a person who meets the minimum skills requirement set out in the current Australian Standard AS 4349.3 Inspections of Buildings. Part 3: Timber Pest Inspection Reports or state/territory legislation requirements beyond this Standard, where applicable

Building and Site means the main building (or main buildings in the case of a building complex) and all timber structures (such as out buildings, landscaping, retaining walls, fences, bridges, trees and stumps with a diameter greater than 100 mm and timber embedded in soil) and the land within the property boundaries up to a distance of 50 metres from the main building(s).

Timber Pests means one or more of the following wood destroying agents which attack timber in service and affect its structural properties:

(a) Chemical Delignification - the breakdown of timber through chemical action.

(b) Fungal Decay - the microbiological degradation of timber caused by soft rot fungi and decay fungi, but does not include mould, which is a type of fungus that does not structurally damage wood.

(c) Wood Borers - wood destroying insects belonging to the order 'Coleoptera' which commonly attack seasoned timber.

(d) Termites - wood destroying insects belonging to the order 'Isoptera' which commonly attack seasoned timber.

Tests means additional attention to the visual examination was given to those accessible areas which the consultant's experience has shown to be particularly susceptible to attack by Timber Pests. Instrument Testing of those areas and other visible accessible timbers/materials/areas showing evidence of attack was performed.

Instrument Testing means where appropriate the carrying out of Tests using the following techniques and instruments:

(a) electronic moisture detecting meter - an instrument used for assessing the moisture content of building elements;

(b) stethoscope - an instrument used to hear sounds made by termites within building elements;

(c) probing - a technique where timber and other materials/areas are penetrated with a sharp instrument (e.g. bradawl or pocket knife), but does not include probing of decorative timbers or finishes, or the drilling of timber and trees; and (d) sounding - a technique where timber is tapped with a solid object.

A.2 ACCESSIBILITY

Unless specified in writing, the inspection only covered the Readily Accessible Areas of the Building and Site. The inspection did not include areas which were inaccessible, not readily accessible or obstructed at the time of inspection. Areas which are not normally accessible were not inspected and include - but not limited to - inside walls, the interior of a flat roof or beneath a suspended floor filled with earth

Building Interior - The Consultant did not move or remove any ceilings, wall coverings, flooring, floor coverings (including carpeting), furnishing, equipment, appliances, pictures or other household goods. In an occupied property, furnishings or household items may be concealing evidence of timber pest attack which may only be revealed when the items are moved or removed.

Building Exterior, Roof Exterior and Site - The Consultant did not move or remove any obstructions such as wall cladding, awnings, trellis, earth, plants, bushes, foliage, stored materials, debris or rubbish. Due to the 'secretive' nature of timber pests, it is possible that hidden damage may exist in concealed areas, e.g. wall framing. Damage may only be found when the obstruction is removed. In the case of buildings constructed on concrete slabs, if the edge of the slab or any weephole or vent at the base of external walls is concealed by pavements, gardens, lawns or landscaping then it is possible for termites to gain undetected entry into the building. The building of gardens or planting of shrubs close to the perimeter of the building can promote and conceal termite entry points. The storage of cellulose materials such as building materials and firewood in close proximity to the ground or building may encourage termite activity.

Roof Space - Obstructions such as roofing, stored articles, thermal insulation, sarking and pipe/duct work may be concealing evidence of timber pest attack which may only be revealed when the obstructions are moved or removed. Also, bodily access should be provided to the interior of all accessible roof spaces. In accordance with Australian Standard ASS 4349 the minimum requirement is a 400mm by 500 mm access manhole.

Subfloor Space - Subfloor areas should be kept free from all vegetation (including tree stumps) and other cellulose material which may encourage timber pest activity. Also, storage of materials in subfloor areas is not recommended as it reduces ventilation and makes inspection difficult. Obstructions may be concealing evidence of timber pest attack which may only be revealed when the obstructions are moved or removed. Bodily access should be provided to all accessible subfloor areas with the minimum requirement being a 500 mm x 400 mm access manhole. In the case of suspended floors, if the clearance between the ground and structural components is less than 400 mm, then the ground should be excavated to provide the required clearance, subject to maintaining adequate drainage and support to footings. If the subfloor has been sprayed for subterranean termites or if the area is susceptible to mould growth, appropriate health precautions must be followed before entering the area. Also, special care should be taken not to disturb the treated soil. Always seek further advice from the Consultant.

A.3 TERMITES

General Description of Attack Timber hollowed beneath; some cracking at the surface of timber; earthen channels present; or pale faecal spots present.

IMPORTANT NOTE. As a delay may exist between the time of an attack and the appearance of telltale signs associated with the attack, it is possible that termite activity and damage exists though not discernible at the time of inspection. Treatment After discovery of an active infestation, it is imperative that the species of termite is accurately identified before costly (and sometimes unnecessary or inappropriate) methods of treatment are initiated. Only economically important species which are known to attack timber structures should be treated. In the case of economically important species, it is important that the termite workings are not further disturbed until the proposed method of control has been determined by a licensed pest control operator. Premature attempts to repair or replace infested timber may cause the termites to withdraw from the area temporarily, thereby hindering effective treatment. Any repair or replacement of infested timber should be carried out after the appropriate treatment has been completed.

Where evidence of active termites is detected within a building or within 50 metres of any building, it must always be assumed that the termites may also be active in areas of the property not inspected. Accordingly, where the termites are known to be of economic significance, a further (more invasive) inspection is strongly recommended of areas which were inaccessible, not readily accessible or obstructed at the time of inspection.

Termite Workings and Damage Where evidence of damage to building timbers exists, competent advice (e.g. from a licensed or registered building contractor) should be obtained to determine the extent of any structural damage and as to the need or otherwise for rectification or repair work.

Where evidence of inactive termites is located within the building, it is possible that termites are still active in areas of the property not inspected and they may continue to cause damage. A further more invasive inspection is strongly recommended of areas which were inaccessible, not readily accessible or obstructed at the time of inspection.

Where evidence of an inactive termite infestation exists, it is not possible, without benefit of further investigation and inspections over a period of time, to ascertain whether any infestation is active or inactive. Continued, regular, inspections are essential.

Where evidence of termite attack exists to any trees or tree stumps a more conclusive search should be undertaken. This may require the tree or stump to be drilled to determine the existence of a termite nest. In addition, the soundness and stability of any standing trees identified as being affected by termite attack should be confirmed. Always seek further advice from the Consultant. **Previous Treatments** Where evidence of a possible termite treatment was located, the Client should obtain and keep on file all relevant documents pertaining to the extent of the treatment, any service warranties and advice in regard to the building owner's obligation to maintain the treatment and/or management system. If evidence of a previous treatment of termite infestation is noted, and appropriate documentation is not available, the Client must assume that the termite infestation may still be active in areas of the property not inspected. Accordingly, a re-treatment may be required. Always seek further advice from the Consultant.

Frequency of Future Inspections Australian Standard AS 3660 recognises that regular inspections will not prevent termite attack, but may help in the detection of termite activity. Early detection will allow remedial treatment to be commenced sooner and damage to be minimised.

Inspections at intervals not exceeding twelve (12) months are recommended. Where the termite risk is high or the building type susceptible to termite attack, more frequent inspections (3-6 months) should be undertaken.

A.4 CHEMICAL DELIGNIFICATION

General Description of Attack Surface of timber appears very hairy; and wood and 'hairs' separate. **Economic Significance** Chemical Delignification of wood in service is only rarely encountered and then only in certain areas. Small dimensional timber members such as roof tiling battens may collapse when the wood becomes defibrated. However, in large dimensional timber members such as rafters, bearers and joists, delignification takes many years to affect the strength of timber to the point of collapse.

Where evidence of Chemical Delignification exists, competent advice (e.g. from a licensed or registered building contractor) should be sought to determine the extent of any structural damage, and as to the need or otherwise for rectification or repair work.

A.5 FUNGAL DECAY

General Description of Attack Decaying wood contains sufficient moisture to retain its original shape and may have sufficient strength to withstand normal loads. In contrast decayed wood is reduced both in moisture content and size as indicated by cracking either along or across the grain or fibres coming apart in a stringy manner. Decayed wood will have undergone considerable strength reduction.

Economic Significance Fungal decay can cause at one extreme, structural failure of the affected timber, and at the other purely superficial surface damage. The most critical determination is that of which timber is affected and decaying, because decay will most likely spread (unless sources of moisture are quickly removed). Affected and decayed timber may warrant timber replacement, but the rot should not spread unless a new moisture source becomes available in that

area where evidence of decayed timber exists, competent advice (e.g. from a licensed or registered building contractor) should be sought to determine the extent of any structural damage, and as to the need or otherwise for rectification or repair work. It is important to correct any condition conducive to attack prior to replacing decayed wood.

Where evidence of decaying timber exists, competent advice (e.g. from a licensed or registered building contractor) should be sought to remove the condition(s) conducive to attack, and to determine the extent of any structural damage, and as to the need or otherwise for rectification or repair work.

Where the full extent of damage or the overall condition of the timber is undetermined a further inspection is strongly recommended by a competent person (e.g. from a licensed or registered building contractor). This may require monitoring of the timber over a period of time and include the assessment of conditions conducive to attack in different weather conditions (e.g. to determine the adequacy of existing drainage).

Management Program Remove any conditions conducive to attack (e.g. lack of ventilation or the presence of excessive moisture). Regular inspections are recommended at intervals not exceeding 12 months. Always seek further advice from the Consultant.

A.6 WOOD BORERS

General Description of Attack As the attack proceeds, borer larvae eat through the wood leaving a dust called "frass". Ejection of the frass occurs through the adult beetles flight (exit) holes, and it is usually present beneath any timber that has been attacked. The presence of frass however, does not indicate whether the attack is active or not. Borer larvae cannot be sighted unless the susceptible timber is broken open.

IMPORTANT NOTE: As a delay may exist between the time of an attack and the appearance of telltale signs associated with the attack, it is possible that borer activity and damage exists though not discernible at the time of inspection.

Economic Significance Evidence of borer activity is rarely cause for alarm, but rather for careful consideration of three main points, namely the identification of the particular borer responsible, whether the infestation is still active, and the extent of the damage. Full consideration should be given to each of these items before any action is taken.

The following wood borers cause damage most frequently encountered by building owners.

The Lyctid Borer - The most common lyctid borer in Australia is *Lyctus brunneus* (powder post beetle). Attack usually takes place during the first six to twelve months of the service life of timber. However, the powder post beetle is not considered a significant pest of timber and treatment of infestation is not usually required. As only the sapwood of certain hardwoods is destroyed, larger- dimensional timbers (such as rafters, bearers and joists) in a building are seldom weakened significantly to cause collapse. In small- dimensional timbers (such as tiling and ceiling battens) the sapwood may be extensive, and its destruction may cause collapse. This may require the support or replacement of the affected battens. Competent advice (e.g. from a licenses or registered building contractor) should be sought to determine the extent of any structural damage, and as to the need or otherwise for rectification or repair work.

The Anobiid Borer - There are many different species of Anobiid borer, the most frequently encountered being *Anobium punctatum* (furniture beetle) and *Calymmaderus incisus* (Queensland pine beetle). Attack mainly occurs to softwoods especially pine timbers such as floorboards that have been in service for at least ten years. Should any structural timbers be attacked by Anobiid borers it is often difficult to determine what extent the borer damage has weakened such timbers and replacement is often the only way of ensuring safety from collapse.

In the case of Anobiid borers, once an attack is initiated it is unlikely to cease or die out of its own accord without some sort of eradication treatment. Therefore, unless proof of treatment is provided, evidence of an attack must always be considered active. Although a chemical treatment is an option, replacement of infested timbers with nonsusceptible, or treated timber, is the most effective method of treatment. Before any option is considered, competent advice (e.g. from a licensed building contractor) should be sought to determine the extent of any structural damage, and as to the need or otherwise for rectification or repair work

Other Borers A further (more invasive) investigation is strongly recommended to determine whether infestation is still active and to positively identify the borer species responsible for the attack. Always seek further advice from the Consultant

Management Program Wherever practical, remove any conditions conducive to attack (e.g. Anobium borer thrive in badly ventilated subfloor areas). Regular inspections are recommended at intervals not exceeding 12 months. Always seek further advice from the Consultant.

A.7 CONDITIONS CONDUCTIVE TO TIMBER PEST ATTACK

Lack of Adequate Subfloor Ventilation Inadequate ventilation provides a condition suitable for timber pest infestation. For example, subterranean termites thrive in damp humid conditions typical of those provided in a poorly ventilated subfloor space. Where evidence of a lack of adequate ventilation has been identified in the report, the Client should seek competent advice (e.g. from a licensed or registered building contractor) in regard to upgrading ventilation.

The Presence of Excessive Moisture Ground levels around the building should be maintained in such a way to minimise water entering under the building. Also the ground surface in subfloor areas should be kept graded to ensure that moisture does not pond or accumulate in any area. Where necessary, sub-surface drains should be installed and maintained to assist with drainage around and under the building. Likewise, the presence of excessive moisture can often be directly related to ventilation limitations and the resultant high humidity.

Also, plumbing oversights and defects such as a leaking drain or tap will provide a microclimate conducive to timber pest attack. Where necessary, the Client should seek competent advice (e.g. from a licensed or registered plumbing contractor) to determine the adequacy of existing drainage and remove any conditions conducive to the presence of excessive moisture.

The building may need to be monitored over a period of time to detect or confirm a damp problem. The presence of dampness (including moisture) is not always consistent as the prevailing and recent weather conditions at the time an inspection is carried out may affect the detection of damp problems. Importantly, precipitation at or near the time of inspection does not necessarily guarantee that a damp problem will automatically be evident due to such circumstances as prevailing wind conditions or intensity of rainfall. The absence of any dampness at the time of inspection does not necessarily mean the building will not experience some damp problems in other weather conditions. Likewise whether or not services have been used for some time prior to an inspection being carried out will affect the detection of dampness.

Bridging or Breaching of Termite Management Systems and Inspection Zones Physical and/or chemical management systems are installed to impede concealed subterranean termite entry into buildings. However, termites may easily enter the building if the management system is bridged or breached. With a concrete slab building it is essential that the edge of the slab be permanently exposed. An inspection zone of at least 75 mm should be maintained so that termites are forced into the open where they can be detected more readily during regular inspections. In the case of physical sheet material management systems, a minimum inspection zone of 75 mm should be maintained from the sheet material to the finished ground. Importantly, the edge of the slab or sheet material should not be rendered, tiled, clad or concealed by flashings, adjoining structures, paving, soil, turf or landscaping.

Where perimeter termite management systems have been installed, the building owner should ensure that the integrity of the management system remains intact and that the inspection of possible termite entry points is not impaired. This is especially important where an exposed slab edge is used as an inspection zone around the building (if the edge of the slab or any weepholes at the base of external walls are concealed by pavements, gardens, lawns or landscaping then it is possible for termites to gain undetected entry).

Also, bridging often occurs when items such as attachments to buildings allow termites to gain access to the building over or around a termite management system. Where attachments to buildings such as steps are not provided with a termite management system or cannot be easily inspected, they should be separated by a clear gap of at least 25 mm from the main structure. Where it is not possible to separate attachments from the main building, regular inspections of these areas should be undertaken.

In addition, termite management systems are often breached by the installation of services. Any disturbance of the management system should be promptly repaired.

Where evidence of bridging or breaching exists, to minimise risk of infestation seek further advice from the Consultant.

Untreated or Non-Durable Timber Used in a Hazardous Environment To reduce the risk of timber pest attack, it is essential that timber used in a hazardous environment (e.g. in direct contact with the ground or damp masonry) is of

sufficient durability and/or is adequately preservative treated. Where evidence of this condition exists, the Client should seek competent advice (e.g. from a licensed or registered building contractor) in regard to the need or otherwise for rectification or repair work

Other Conditions Conducive to Timber Pest Attack If the cause or solution to a problem is not obvious, the Client should seek competent advice (e.g. from a licensed or registered building contractor) in regard to removing any conducive condition.

A.8 RISK MANAGEMENT OPTIONS

To help protect against financial loss, it is essential that the building owner immediately control or rectify any evidence of destructive timber pest activity or damage identified in this inspection report. The Client should further investigate any high risk area where access was not gained. It is strongly advised that appropriate steps be taken to remove, rectify or monitor any evidence of conditions conducive to timber pest attack.

To help minimise the risk of any future loss, the Client should consider whether the following options to further protect their investment against timber pest infestation are appropriate for their circumstances:

Undertake thorough regular inspections at intervals not exceeding twelve months or more frequent inspections where the risk of timber pest attack is high or the building type is susceptible to attack. To further reduce the risk of subterranean termite attack implement a management program in accordance with Australian Standard AS 3660. This may include the installation of a monitoring and/or baiting system, or chemical and/or physical management system. However, AS 3660 stresses that subterranean termites can bridge or breach management systems and inspection zones and that thorough regular inspections of the building are necessary.

If the Client has any queries or concerns regarding this Report, or the Client requires further information on a risk management program, please do not hesitate to contact the person who carried out this Report.

Auction Process

Buyer guide – Auction.

An auction is a transparent public sales process that allows people to make offers (known as bids) for a property. Auction proceedings are governed by law and the REIWA Auction Code of Practice.

Auctions are straightforward means to allow buyers to offer a bid at a price where they see value in a property.

There is a set time and date of sale and all terms and conditions are outlined in advance. The auction contract is a cash unconditional contract where both buyers and sellers are bound to the transaction terms and conditions.



How do I prepare myself for the auction?

If required, organize finance from an authorized lending institution or preferred bank prior to auction day.

The settlement date will be disclosed by the Agent and is traditionally between 30-60 days. A buyers deposit is payable on the “fall of the hammer” and execution of the sale contract.

You may want to seek independent advice on the potential value of a property and even appoint a person to bid on your behalf. This gives you a feel as to how the process works and the type of bidding that can occur. It may also make you more comfortable when it comes to bidding.

Do I need to pre-register?

At our Realmark auctions, there is no formal need to pre-register before bidding at an auction. However if you are considering bidding on the day of the auction, please convey your interest to the agent in order to be kept informed.

We recommend as part of your due diligence that you have a copy of the Auction Particulars and Conditions of sale, the Joint form of General Conditions of Sale 2011 and the REIWA Auction Code of Conduct. It is also recommended you advise the agent of any special conditions or any variations you may require (in writing) prior to bidding.

How does the process work?

At an auction the Auctioneer will usually:

- Describe the auction contract and the terms of auction (copies will be available on day of auction);
- Summaries the benefits of the property;
- Call for an opening bid;
- Sell the property to the highest bidder, once the reserve price is met.

Feel welcome to ask the Auctioneer or the Agent any questions about the proceedings prior to the auction commencing.

The bidding process

You need to bid in order to buy. It is only by bidding that you can indicate your interest in the property.

The Auctioneer may start with an opening bid. To bid, simply attract the attention of the Auctioneer by raising your hand, paddle or calling out a figure, or nodding your head when you make eye contact with the Auctioneer. The Auctioneer is there to encourage and assist you in bidding, and usually nominates the incremental amount to be advanced.

Some buyers prefer to bid quickly to indicate their intent. Others will hold back and only come in later in the proceedings – there is no right or wrong approach.

If you are going to wait, then don't wait until the Auctioneer's "third and final call" as you may risk missing out by doing this.

What is a reserve price and how do I know the property is about to sell?

A reserve is a nominated price under which the seller will not sell the property. The seller sets the reserve price with the Auctioneer and it is generally established using price feedback throughout the campaign together with the most recent comparable sales. The reserve is not disclosed to the bidders. When bidding reaches the reserve, the property is then to be sold. The auctioneer may indicate this using phrases such as 'it's on the market' or 'we are selling now' or similar. The Auctioneer will announce "first call, second call, third and FINAL call...SOLD!"

What is seller bidding?

The Auctioneer has the discretionary right to place bids on behalf of the seller. This may occur if you and other bidders choose not to commence bidding. If required, seller bidding will only take place under a figure that the seller is willing to accept. Seller bids provide buyers an indication of the seller's price expectation and should simply be seen as a "counter offer" on price. The Auctioneer is the only person allowed to bid on behalf of the seller and all seller bids will be declared and clearly announced as such.

However all Realmark sellers have given a written undertaking that they will not bid or have another party bid on their behalf at the auction. So you can participate with total confidence!

Bidding on behalf of another person and remote bidding

If you are acting as a buyer's representative and/or nominee, you will be required to produce a signed agency form (along with valid identification) notifying you as the buyer's nominee. Your Realmark agent will gladly provide the relevant REIWA form. If you don't have this document it is assumed you are buying the property in your own right. The agent can also pre-arrange for a telephone bidding form should you not be able to be at the auction on-site and choose to bid by telephone. To always protect yourself, it is wise to have the relevant Realmark forms signed off in advance and in turn, the Agent will advise the seller and Auctioneer.

“Unless sold prior” versus “Will not be sold prior” – What does this mean?

In some instances, due to the nature of the property or circumstances of the Seller, Public Trust or Solicitor instructions, the property will be advertised: “Will not be sold prior to Auction” day. This means it will track through to Auction Day. Nobody can submit a Pre-Auction offer.

In other circumstances, a property can be sold prior to auction day.

This means a buyer can offer a pre-auction offer. The Agent will seek to contact other interested parties. So, interested buyers should make sure they have registered their interest and provided contact details. The seller reserves the right to sell prior or proceed to Auction Day. There is no negotiations prior to auction. A pre-auction offer should be cash unconditional on auction terms.

What happens if the property doesn’t sell at auction?

If the highest bid offered to the seller at auction is not accepted then the property will be “set aside” and the auction concluded. Traditionally, the Auctioneer (and Agent) will “treat” with the highest bidder who will be given the chance to negotiate for the property just after the auction. This provides the highest bidder a further opportunity to buy before the property ahead of other interested buyers, including those that were not able to bid at the auction event.

It is generally accepted that bidding confidently gives a person the best chance of winning the auction. Go to the auction with a price in mind but allow a certain ‘flexibility’ should it be required at the business end of proceedings as the auction bids provide an indication of market value.

What contract do I sign?

You will be signing an Auction Particulars and Conditions of Sale Contract along with a copy of the Joint Form of General Conditions of Sale 2011. You should always examine the contract prior to attending the auction. In addition, there will be copies on display prior to the commencement of the auction. All terms and conditions will be outlined, such as warranties (if any), deposit, chattels, and settlement date.

Realmark Auctioneers are available to talk to you if you require any further clarification. Otherwise, if you have any questions, please contact the Realmark appointed Agent.

Yes it’s that simple. For more information or if you require assistance refer to your Realmark representative

Realmark guides are intended to provide commentary and general information. They should not be relied upon as legal advice. Formal legal advice should be sought in particular transactions or on matters of interest arising from this guide.

REIWA Auction Code of Conduct

[AUCTION CODE OF CONDUCT](#)

1 OBJECT CODE

1.1 THE OBJECTS OF THIS CODE ARE TO:

- (a) Regulate and standardise the procedures of members of REIWA when conducting auctions.
- (b) Provide consumer protection for both sellers and buyers in the auction process.

1.2 THE OBJECTS OF THIS CODE SET OUT IN CLAUSE 1.1 ABOVE SHALL BE ACHIEVED BY:

- (a) Real Estate Agents, Real Estate Sales Representatives and Auctioneers adhering to the terms of this Code of Conduct.
- (b) REIWA enforcing this Code of Conduct with respect to the actions of its members.
- (c) REIWA providing education to its members about this Code of Conduct and, in particular, compliance with its terms.
- (d) REIWA promoting to the public the existence of this Code of Conduct, its terms and the method by which consumers may lodge complaints with REIWA about any breaches of the Code by members of REIWA.
- (e) REIWA reviewing on a regular basis the efficacy of this Code of Conduct in providing consumer protection in the auction process and, where necessary, amending the terms of the Code to enhance the effectiveness by which the Code meets its stipulated objects.

2 INTERPRETATION

IN THIS CODE:

"agent" means a person representing another and/or acting on that other person's behalf.

"auction" means the selling of any property of any kind or description whatsoever by any mode whereby the highest, lowest, or any bidder is the purchaser, or whereby the first who claims the property submitted for sale at a certain price named by the person acting as Auctioneer is the purchaser, or whereby there is a competition for the purchase of any property in any way commonly known and understood to be by way of auction.

"Auctioneer" means any person who:

- (a) sells or attempts to sell or offers for sale or resale any property, whether the property of the Auctioneer or of any other person, by way of auction; and
- (b) is licensed as an Auctioneer pursuant to section 6 of the Auction Sales Act, 1973.

"Person" includes a public body, company or association or body of persons, corporate or unincorporate.

"the public" means the general community considered as a whole including, but not limited to, buyers and sellers of property at auctions.

"Real Estate Agent" means a person licensed as a Real Estate Agent pursuant to the terms of the Real Estate and Business Agents Act, 1978 and who has been appointed by a seller to sell a particular property at auction.

"Real Estate Sales Representative" means a person registered as a Real Estate Sales Representative pursuant to the terms of the Real Estate and Business Agents Act, 1978.

"Seller" is the person who is selling a property the subject of an auction.

3 GENERAL CONDUCT OF REAL ESTATE AGENTS, 3 REAL ESTATE SALES REPRESENTATIVES & AUCTIONEERS

In addition to the obligations placed upon Real Estate Agents, Real Estate Sales Representatives and Auctioneers pursuant to the provisions of the REIWA Members' Codes of Practice, as set out in clause 7 below:

- 3.1 Real Estate Agents, Real Estate Sales Representatives and Auctioneers acting in relation to auctions must at all times act with honesty and fairness when dealing with members of the public.
- 3.2 Real Estate Agents, Real Estate Sales Representatives and Auctioneers acting in relation to auctions must at no time:
 - (a) act in an unconscionable manner;
 - (b) unduly harass or coerce any member of the Public; or
 - (c) apply sales pressure to any member of the Public that, in all the circumstances, is unfair. ¹

4 BEFORE THE AUCTION

- 4.1 Real Estate Agents shall not advertise a property as being for sale by auction unless there is intended to be a genuine auction and unless a legally valid written authority to auction form has been duly executed by or on behalf of the Seller.
- 4.2 Prior to any auction the Real Estate Agent appointed by a Seller to sell the particular property by auction shall make available for inspection to any person who so requests the terms and conditions under which the sale of the property by auction will be undertaken.
- 4.3 If applicable, the Real Estate Agent shall specify in the terms and conditions of sale referred to in clause 4.2 above that the Seller reserves the right to bid for the property either personally or through an agent and shall identify the number of those reserved bids.
- 4.4 The Real Estate Agent shall make this Code of Conduct available for inspection prior to the auction by providing copies of this Code to any person to whom the Real Estate Agent gives a copy of the terms and conditions of the auction.
- 4.5 If the seller so instructs, the Real Estate Agent must inform the Public in all advertising devised by the Real Estate Agent with respect to the property that offers for the property may be considered prior to the Auction.

5 AT THE AUCTION

- 5.1 The terms and conditions of any auction sale shall be on display and available for inspection together with this Code at the auction. Any portion of the terms and conditions relating to the description of the property shall be read aloud by the Auctioneer appointed to conduct the auction of the property at the commencement of that auction.
- 5.2 Before commencement of the bidding for a property, the Auctioneer shall announce whether the Seller is selling with a reserve price. It shall not be necessary for that reserve price to be disclosed to bidders.
- 5.3 If the Seller has reserved the right to bid for the property either personally or through an agent:
 - (a) the Auctioneer shall announce prior to the commencement of the bidding that the Seller has so reserved the right to bid and shall at that time specify whether the Auctioneer, the seller or some other person on behalf of the seller will be making those bids;
 - (b) where the Auctioneer has been appointed to bid on behalf of the Seller all bids made on behalf of the Seller shall be so made by the Auctioneer and notice of that fact shall be given prior to the commencement of the bidding for the property;
 - (c) where the Seller or some person other than the Auctioneer shall be bidding on behalf of the Seller the Auctioneer

¹ Examples of where the provisions of clause 3.2 may be breached would include:

- (a) where bids are accepted from persons who are known to be suffering from dementia, intoxicated or confused as to the nature of the auction process.
- (b) where unreasonable pressure is placed on a seller to set a reserve price that is well below the known market price, particularly where the seller is known to be suffering from a disability.
- (c) the canvassing of potential buyers to attend an auction or to make a bid at an auction, by telephoning the buyers at an unreasonable hour or with unreasonable frequency.
- (d) belittling, berating or embarrassing a bidder during the conducting of an auction.
- (e) disguising onerous terms in contracts by the use of fine print or complex language.
- (f) providing advice as to the terms of a contract of sale to a potential bidder/buyer or advice as to the terms of an authority to auction to a seller without mentioning or adequately describing the obligations placed upon the consumer by the contracts concerned.

5 AT THE AUCTION continued

shall identify that person prior to the commencement of the bidding for the property;

- (d) the Auctioneer shall announce prior to the commencement of bidding for the property the maximum number of bids which will or may be made during the auction by the Seller or by any person on behalf of the Seller;
 - (e) the Auctioneer shall announce, contemporaneously with any bid being made by or on behalf of a seller the fact that the bid has been so made by or on behalf of the seller;
 - (f) neither the Real Estate Agent nor any salesperson engaged by the Real Estate Agent shall make or assist any other person to make any bid on behalf of the Seller in contravention of any announcement by the Auctioneer under clause 5.3.
- 5.4 If a property is to be sold at an auction without reserve no bid shall be made by or on behalf of the Seller and no Real Estate Agent or Auctioneer may in any way encourage or be a party to such a bid at the auction provided that this clause shall not apply to any auction where a court has ordered to the effect that the particular auction shall take place without reserve.
- 5.5 The Auctioneer shall ensure that the amount of any bid is clearly stated.
- 5.6 The Auctioneer shall resolve any disputed bid in accordance with the terms and conditions of sale governing the auction.
- 5.7 When any person asks the Auctioneer whether the current bid was a bid made by or on behalf of the Seller, the Auctioneer MUST respond by advising whether or not the bid was made by or on behalf of the Seller.
- 5.8 Under no circumstances may a bid made on behalf of the Seller by an Auctioneer or a Real Estate Agent be at or in excess of any Seller's reserve price.
- 5.9 The Auctioneer shall always clearly announce when the property is about to be sold under the hammer.

6 DUMMY BIDDING

- 6.1 Dummy bidding is fictitious or false bidding at an auction by non-genuine bidders in the audience with no real intention to buy the property and any Auctioneer or Real Estate Agent who encourages or is a party to such bidding is in breach of this Code PROVIDED that nothing in this clause prevents an Auctioneer or agent from encouraging or being a party to bidding by or on behalf of a Seller as provided for in this code.

7 CONSUMER/INDUSTRY AWARENESS AND REVIEW OF THE TERMS OF THIS CODE

- 7.1 REIWA shall promote the terms of this Code of Conduct to consumers and its members, and REIWA shall collect data with respect to the Code in accordance with procedures set out in its Part IV of the Competition and Consumer Act 2010 and Auction Code of Conduct Compliance Programme Manual.
- 7.2 REIWA shall review the terms of this Code of Conduct and the efficacy of its terms in providing consumer protection in accordance with the procedures set out in its Part IV of the Competition and Consumer Act 2010 and Auction Code of Conduct Compliance Programme.
- 7.3 Consumers and members of REIWA may access the Part IV of the Competition and Consumer Act 2010 and Auction Code of Conduct Compliance Programme by making written contact with the Personal Assistant to the Chief Executive Officer of REIWA or by visiting the REIWA internet site at www.reiwa.com.au.

8 THE REIWA MEMBERS' CODES OF PRACTICE

The following provisions are reproduced from clause 10 of the REIWA Members' Codes of Practice:

- 8.1 In any agency relationship, a member must act in the best interests of his or her principal except where it would be unreasonable or improper to do so.
- 8.2 In any agency relationship, a member must act in accordance with the instructions of his or her principal, except where it would be unreasonable to do so.
- 8.3 A member must act fairly and honestly.
- 8.4 A member must not knowingly engage in any misleading or deceptive conduct.
- 8.5 A member must not engage in any harsh or unconscionable conduct.
- 8.6 A member must act so as to exercise due skill, care and diligence.

9 BREACHES OF THIS CODE

- 9.1 Consumers and members of the real estate industry may lodge complaints with REIWA if they believe that a member of REIWA has breached any term of this Code of Conduct or the REIWA Members Codes of Practice. Upon receipt of such a complaint REIWA will deal with that complaint in accordance with the terms of Article 41 of REIWA's Articles.
- 9.2 Extracts from Article 41 of REIWA's Articles are set out below:
41. 41.1 A member may be expelled or suspended from the Institute should the Council or Executive Committee determine that:
- (a) ...
 - (b) ...
 - (c) ...
 - (d) the member has breached one or more of the rules, articles, codes, regulations or by-laws of the Institute.
- 41.2 Should:
- (a) the Institute receive a complaint from a member of the Institute, the Chief Executive Officer of the Institute, an agent who is not a member of the Institute or a member of the public that any of the events referred to in Article 41.1 has or may have occurred; or
 - (b) the Council or the Executive Committee of their own complaint consider that any of the events referred to in Article 41.1 has or may have occurred
- the Council or the Executive Committee must refer the matter to a Professional Standards Tribunal for hearing.
- 41.3 41.3.1 Professional Standards Tribunals shall be established from time to time by the Council or the Executive Committee and shall be made up of persons stipulated and selected by the Council:
- 41.3.2 Upon the hearing of a matter referred to a Professional Standards Tribunal pursuant to Article 41.2 the Tribunal shall have the power to:
- (a) impose the penalties prescribed in any articles, rules, codes, regulations or by-laws of the Institute in respect to any breaches thereof;
 - (b) impose monetary penalties of not more than \$10,000 for any breach of any articles, rules, codes, regulations or by-laws of the Institute;
 - (c) impose a reprimand;
 - (d) dismiss the matter without penalty and without recommendation of further action;
 - (e) recommend that the member be expelled or suspended from membership of the Institute; and/or
 - (f) order the restitution of any monies held or received by the member the subject of the hearing to the persons determined to be entitled to those monies.
- 41.3.3 ...
- 41.4 41.4.1 Should a Professional Standards Tribunal recommend in accordance with Articles 41.3.2 that a member be expelled or suspended from membership of the Institute the matter shall be referred back to the Council or the Executive Committee for determination.
- 41.4.2 ...
- 41.4.3 ...
- 41.5 ...
- 41.6 Any member who is expelled or suspended from membership of the Institute by the Council or the Executive Committee pursuant to Article 41 or who is penalised by a Professional Standards Tribunal pursuant to Articles 41.3.2(1), (b), (c) or (f) shall have a right of appeal against that expulsion, suspension or penalty in accordance with the provisions of Article 45 PROVIDED THAT if a member has been expelled or suspended the member shall remain under suspension until the determination of the appeal.
- 41.7 Expulsion of a member pursuant to Article 41 shall be deemed to not take effect until:
- (a) the date upon which any time given to appeal against the decision to expel expires pursuant to Article 45; or
 - (b) the date that notice of the determination of any such appeal is given to the member whichever is the later."

REIWA Auction Particulars & Conditions of Sale

auCTION PARTICULARS AND CONDITIONS OF SALE OF FREEHOLD PROPERTY



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AUCTION PARTICULARS AND CONDITIONS OF SALE OF FREEHOLD PROPERTY

SITUATED AT

10 Fermoy Link Darch, WA 6065

TO BE OFFERED FOR SALE BY PUBLIC AUCTION

BY

Realmark North Coastal T/as Realmark North Coastal
Ph 9246 0050 | ACN: 158 950 255 | ABN: 25 158 950 255 TC: 64748

("Seller's Agent")

at 11:00 am am / ~~pm~~ on the 4 day of 10 2025

at the Property/ ~~or~~

under instructions from

Tiago Marcio Souza Dallamaria and Gabriela De Marques Martins
of 10 Fermoy Link, Darch, WA 6065

("Seller")

PARTICULARS

1. PROPERTY

Lot 404 on Deposited/Survey/Strata/Diagram/Plan 37117 and

being the whole/part of the land in Certificate of Title Volume 2545 Folio 111 together with

all buildings and other fixed improvements erected upon the Land ("Property") together also with the following Chattels, being fixtures & fittings and plant & equipment including

all fixtures and fittings, fixed floor coverings, light fittings & window treatments.

("Chattels")

2. ENCUMBRANCES

The Property is sold subject to the following Specified Encumbrances rights or interests (registered or unregistered as indicated).

- 1599106 Memorial Town Planning and Development ACT 1928 registered 21/8/2003
- Restrictive Covenant Benefit - See deposited plan 37117 & instrument 1599110
- Restrictive Covenant Burden - See deposited plan 37117 & instrument 1599110
- Restrictive Covenant Benefit - See deposited plan 37117 & instrument 1599109

3. ZONING AND PRESENT USE

The zoning of the Property is R20

and the present use is Residential

4. LEASES

The Property is sold with vacant possession, unless the Leases (if any) are specified:

Vacant possession

5. SETTLEMENT DATE

The Settlement Date will be the day of 30-45 days from auction by mutual agreement 20 25

6. DEPOSIT

The Deposit will be percentage of the Purchase Price or \$ 50,000

(whichever is completed)

7. GST WITHHOLDING

1. Is this Contract concerning the taxable supply of new residential premises or potential residential land as defined in the GST Act? ☐ Yes ☒ No
2. If NO is ticked or no box is ticked (in which case the answer is deemed to be NO), then the Buyer is not required to make a payment under section 14-250 of the Taxation Administration Act 1953 (Cth).
3. If YES is ticked, then the 'GST Withholding Annexure' should be attached to this Contract.

auction particulars and conditions of sale of freehold property



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NOTICE: Contracts must be lodged with the Office of State Revenue for duty assessment within two (2) months of the date the last person executes the Contract.

WARNING - If the Buyer is not an Australian Citizen or Permanent Resident or a New Zealand Citizen then FIRB approval (and a special condition to this Contract) may be required.

WARNING - A Withholding Amount may apply to this Contract (see 2022 General Condition 3.7).

WARNING - If GST is relevant to this transaction then the relevant GST provision should be outlined in the Special Conditions or in an attached GST Annexure, which forms part of this Contract.

GENERAL CONDITIONS OF AUCTION

1. The Property is offered for sale subject to a reserve price set by the Seller ("Reserve Price") and the highest bidder accepted by the Auctioneer will be the Buyer with the Auctioneer having the right to refuse any bid, which in the Auctioneer's opinion, is not in the best interests of the Seller.
2. A bidder will be the Buyer unless prior to the commencement of the bidding a written authority to bid for and on behalf of another entity has been obtained by the bidder.
3. The amount of the advance of each bid will be regulated by the Auctioneer and no person can retract their bid or advance a lesser sum than that which may be named or accepted by the Auctioneer.
4. The Seller reserves the following rights:
 - (a) to bid personally or by the Seller's Agent or the Auctioneer up to the Reserve Price by not more than ten (10) bids;
 - (b) without disclosing any Reserve Price, to withdraw the Property from sale at any time before it has been sold whether or not the sale has commenced.
5. If any dispute arises as to any bid, the Auctioneer may immediately either determine the dispute or resume the bidding at the stipulated last undisputed bid.
6. Immediately on the fall of the hammer, the Buyer must sign the Contract and pay to the Seller's Agent, the Deposit as set out in the Particulars. The Auctioneer may re-open the bidding or may re-submit the Property to bidding if the highest bidder is unable or unwilling to pay the Deposit or to sign the Contract. The Auctioneer's decision is final.
7. The balance of the Purchase Price must be paid on the Settlement Date set out in the Particulars.
8. All moneys paid by the Buyer on account of the Purchase Price to the Seller's Agent or Representative will be held as a Deposit Holder, pending Settlement. If prior to Settlement, the Seller and the Buyer jointly authorise the Deposit Holder to account to either of them or a third party for the purposes of Settlement or delivery of possession, the Seller's Agent is entitled to retain from moneys held, the Agent's Selling Fee, and all agreed expenses pending Settlement.
9.
 - (a) The Chattels described in the Particulars are sold as inspected and the Seller warrants they own those Chattels and that they are free from any lien, charge, Encumbrance or other interest of any third party (except as stated in the Special Conditions).
 - (b) Where Chattels are included in the sale, the Purchase Price will be allocated or apportioned as set out in the Contract (if applicable).
10. The Property is sold free from all Encumbrances except as stated in the Particulars.
11. The Property is zoned as specified in the Particulars.
12. The Buyer is entitled to vacant possession of the Property upon Settlement unless existing Leases are referred to in the Particulars.
13. **STRATA/SURVEY STRATA PROPERTY ACKNOWLEDGEMENTS**

If the Property being auctioned is a Strata/Survey Strata Lot and the sale is to be in accordance with the terms of the Strata Titles Act, 1985, the Buyer will be given and will be required to acknowledge before signing the Contract, receipt of the following documents: receipt of the information incorporated in the Precontractual Disclosure Statement and any attachments to that Statement.
14. The GST Withholding provisions set out in the Particulars apply to this Contract.
15. The Buyer and Seller consent to the information in this Contract being used/disclosed by REIWA and the Seller Agent in accordance with the privacy collection notices pursuant to the Australian Privacy Principles that appear on the REIWA and Seller Agent's websites.
16. The 2022 General Conditions together with the Annexure of Changes to the 2022 General Conditions Caused by changes to the transfer of *Land Act 1893* are incorporated into this Contract so far as they are not varied by or inconsistent with the Conditions or Special Conditions of this Contract.
17. Words not defined in the Contract have the same meaning as those defined in the 2022 General Conditions.

SPECIAL CONDITIONS OF AUCTION

This contract is conditional upon the attached annexure A) Sewerage/Pool/Spa.

The property will be sold on an as is where is basis.

DRAFT

auction particulars and conditions of sale of freehold property



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CONTRACT

At the sale by Public Auction on this 4 day of 10 20 2025

NAME, ADDRESS

NAME, ADDRESS

NAME, ADDRESS

("Buyer")

EMAIL: The Buyer consents to Notices being served at

The Buyer (as Joint Tenants/Tenants in common specifying the undivided shares) agrees to buy the Property described in the Particulars and all fixed improvements ("Property") with vacant possession unless otherwise provided in the General Conditions of Auction or Special Conditions of Auction together with the Chattels described in the Particulars, on the same terms and conditions set out in the General Conditions of Auction and Special Conditions of Auction at the Purchase Price of

\$

The Buyer has paid to the Seller's Agent the Deposit of \$

BUYER (If a corporation, then the Buyer executes this Contract pursuant to the Corporations Act.)

Name

Signature

Date

THE SELLER (FULL NAME AND ADDRESS)

Tiago Marcio Souza Dallamaria and Gabriela De Marques Martins
of 10 Fermoy Link, Darch, WA 6065

EMAIL: The Seller consents to Notices being served at

AGREES to sell the Property to the Buyer and acknowledges that the Seller's Agent's selling fee payable to the Seller's Agent is the Seller's responsibility.

(If a corporation, then the Seller executes this Contract pursuant to the Corporations Act)

Name

Signature

Date

RECEIPT OF DOCUMENTS

The Buyer acknowledges receipt of the following documents:

1. This offer and acceptance
2. Strata disclosure & attachments (if strata)
3. 2022 General Conditions
4. Other Annexure A & Certificate of Title
5. Other Changes to the 2022 General Conditions

RECEIPT OF DOCUMENTS

The Seller acknowledges receipt of the following documents:

1. This offer and acceptance
2. 2022 General Conditions
3. Other Annexure A
4. Other

CONVEYANCER (Legal Practitioner/Settlement Agent)

The Parties appoint their Representative named below to act on their behalf in respect to this transaction and consent to Notices being served on that Representative's email address.

BUYER'S REPRESENTATIVE

SELLER'S REPRESENTATIVE

Name

Signature

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ANNEXURE OF CHANGES TO THE 2022 GENERAL CONDITIONS CAUSED BY CHANGES TO THE TRANSFER OF LAND ACT 1893

LANDGATE WILL NOT ISSUE, OR REQUIRE DUPLICATE CERTIFICATES OF TITLE FOR LAND TO BE PRODUCED, FROM THE 7TH AUGUST 2023, CONSEQUENTLY THE PARTIES AGREE TO VARY THE 2022 GENERAL CONDITIONS IN THE FOLLOWING MANNER:

	CONDITION	CHANGES
1.	3.10(a)	Delete subclause (1).
2.	3.11	Delete clause 3.11.
3.	26.1 definition of "Duplicate Certificate of Title"	Delete the definition of "Duplicate Certificate of Title".

Buyer

Signature _____

Name _____

Date _____

Signature _____

Name _____

Date _____

Signature _____

Name _____

Date _____

Signature _____

Name _____

Date _____

Seller

Signature _____

Name Tiago Marcio Souza Dallamaria

Date _____

Signature _____

Name Gabriela De Marques Martins

Date _____

Signature _____

Name _____

Date _____

Signature _____

Name _____

Date _____

ANNEXURE (A)

SEWERAGE/POOL/SPA

This Annexure forms part of the Contract for the Sale of Land and or Strata Title for the Property at

10 Fermoy Link Darch, WA 6065

1. These provisions apply to this Contract and override any other provisions in the Contract or the 2022 General Conditions which vary or are inconsistent with the express terms of this document.

SEWERAGE

2. The Seller discloses to the Buyer that:

- A) The Land connected to a Water Corporation sewer. **Select Option** initials
- B) The Land is connected to a Water Corporation sewer and the septic tank(s) been decommissioned. **Select Option** initials
- C) At the Contract Date the Seller received a notice requiring the Land to be connected to a Water Corporation sewer. **Select Option** initials

3. The Buyer(s) acknowledges that they are aware that clause 12 of the 2022 General Conditions apply to this Contract and the Buyer should make their own enquiries as to whether a Water Corporation notice has or will be issued.
4. The Seller and the Buyer agree that Condition 9.1(a) of the 2022 General Conditions do not apply to this Contract in relation to a Water Corporation notice only.

SWIMMING POOL/SPA

5. The safety barriers to the swimming pool/spa DO NOT comply with current legal requirements. **Select Option** initials
6. The Buyer acknowledges that the Seller HAS NOT complied with statutory requirements to upgrade the safety barriers to the swimming pool/spa. **Select Option** initials
7. The Buyer acknowledges that upon Settlement or possession of the Property the Buyer will have a statutory obligation to comply with the statutory requirements for the safety barriers to the swimming pool/spa. initials
8. The Buyer agrees upon Settlement or possession of the Property to immediately upgrade the safety barriers to the swimming pool/spa to comply with current statutory requirements. initials
9. The Buyer agrees to be liable for all costs and expenses associated with upgrading the safety barriers to the swimming pool/spa to comply with current statutory requirements. initials

SPECIAL CONDITIONS

10. The Seller and the Buyer agree that the following special conditions apply to this Contract:

The buyer/s is aware that the spa will be sold on an as is where is basis.

Sellers Signature(s)

Date

Buyers Signature(s)

Date

Bidders Registration

BIDDING REGISTRATION FORM

Realmark

BIDDER'S SURNAME

GIVEN NAMES

BIDDER'S ADDRESS

TELEPHONE

MOBILE

EMAIL

FAX

DRIVERS LICENSE NO.

PADDLE NO.

ADDRESS OF PROPERTY

10 Fermoy Link DARCH

DATE OF AUCTION

4th October 2025

TIME

11:00am

I have read and I understand and I agree to be bound by the conditions of sale and terms of this auction (or the conditions of my/our variations if accepted by the seller's in advance, in writing) and I will compete the purchase of this property if I am the successful bidder pursuant to the terms and conditions of sale and auction terms. I am over 18 and an Australian Citizen and/or Permanent Resident and I am entitled to bid. If I am a Foreign National and require Foreign Investment Review Board approval to purchase the property then I warrant that I have such approval prior to the auction.

Initial. _____

VARIATION OF TERMS & CONDITIONS (IF ANY).

Any variations to the terms and conditions of the auction will be announced at auction. All bidders can bid under these variations.

VARIATIONS REQ'D

BIDDER INITIAL

APPROVED BY SELLER INITIAL

PRIVACY STATEMENT

The Agent/Auctioneer uses this information collected from you to perform its obligations as Agent/Auctioneer. Information will not be disclosed to any other party unless required by law and unless otherwise allowed under the Privacy Act 1988 and in relation to the sale and purchase of property.

BIDDING FOR A THIRD PARTY

Please advise the Auctioneer prior to bidding if budding for a third party that the contract must be executed by you as purchaser. Evidence of the authority and/or agent will be required otherwise you are bound as the purchaser.

OFFICE USE ONLY

AGENT

REALMARK NORTH COASTAL

AUCTIONEER

Jeanette Bates

SALES ASSOCIATE

Mandie Cubeddu

SIGNED

DATE

SIGNED

DATE

DEPOSIT DETAILS

Bank Macquarie Bank
Account Name: Realmark North Coastal Trust Account
BSB: 186-300
Account Number: 3044-47204
Reference:

Realmark North Coastal
Shop 9, 8 Burragah Way
Duncraig WA 6023
ph: 9246 0050
email: duncraig@realmark.com.au

Joint Forms of General Condition 2022

2022 General Conditions

JOINT FORM OF GENERAL CONDITIONS FOR THE SALE OF LAND

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1 Deposit

1.1 Payment

Subject to clause 1.3, the Buyer must pay the Deposit to:

- (a) the Seller Agent; or
- (b) the Seller Representative; or
- (c) if the Seller has not appointed a Seller Agent or a Seller Representative, the Seller.

1.2 Deposit Holder - Stakeholder

- (a) Subject to this clause 1.2, if the Deposit is paid to a Deposit Holder, the Deposit Holder must hold the Deposit as stakeholder.
- (b) If a Party contends that:
 - (1) the Contract has been terminated; and
 - (2) that Party is entitled to payment of the Deposit, the following provisions of this clause 1.2 apply.
- (c) The Deposit Claimant must:
 - (1) serve on the Deposit Holder and the Deposit Respondent the Deposit Holder Notice; and
 - (2) provide proof to the Deposit Holder of the service of the Deposit Holder Notice on the Deposit Respondent.
- (d) Unless the Deposit Respondent serves a Notice on the Deposit Holder in accordance with subclause (e), the Deposit Holder must after:
 - (1) the expiry of 8 Business Days after the last to occur of service of the Deposit Holder Notice on the Deposit Respondent and the Deposit Holder; and
 - (2) the Deposit Holder has received proof as required by subclause (c) that the Deposit Holder Notice has been served on the Deposit Respondent, pay the Deposit to the Deposit Claimant.
- (e) The Deposit Respondent may, within 5 Business Days after service on the Deposit Respondent of the Deposit Holder Notice, serve a Notice on the Deposit Holder and the Deposit Claimant:
 - (1) stating that the Deposit Respondent disputes that the Deposit Claimant is entitled to receive the Deposit; and
 - (2) specifying the reasons why the Deposit Respondent contends that the Deposit Claimant is not entitled to receive the Deposit.
- (f) If the Deposit Respondent serves a Notice on the Deposit Holder and the Deposit Claimant under subclause (e), the Deposit Holder may:
 - (1) obtain legal advice as to the action to be taken by the Deposit Holder;
 - (2) institute interpleader proceedings in a court; and
 - (3) deduct from the Deposit the legal cost and expense incurred by the Deposit Holder in connection with obtaining that legal advice and those interpleader proceedings.
- (g) Each Party:
 - (1) directs the Deposit Holder to comply; and
 - (2) releases the Deposit Holder from liability for complying, with this clause 1.2.
- (h) Payment by the Deposit Holder of the Deposit in accordance with:
 - (1) subclause (d); or
 - (2) interpleader proceedings referred to in subclause (f)(2) discharges the Deposit Holder from any further liability in respect to the Deposit.
- (i) The failure by a Party to serve a Deposit Holder Notice or a Notice under subclause (e):
 - (1) does not affect; and
 - (2) is not treated as a waiver of, any right as between the Parties.
- (j) In this clause 1.2, a reference to the Deposit includes:
 - (1) any money in addition to the Deposit, paid to the Deposit Holder by the Buyer in accordance with the Contract; and
 - (2) interest earned on the Deposit or on any other money specified in subclause (j)(1) invested by the Deposit Holder with a Deposit Financial Institution.

1.3 Deposit - Proposed Scheme Lot

- (a) Subject to clause 1.4, if the Contract relates to the sale of:
 - (1) a Proposed Strata Lot; or
 - (2) a Proposed Community Lot, the Deposit must be:
 - (3) unless otherwise agreed by the Parties, paid by cheque or by direct transfer into a bank account as notified by the Buyer; and
 - (4) paid to and held by a Legal Practitioner, Real Estate Agent or Settlement Agent in accordance with the Strata Titles Act or the Community Titles Act (as applicable) until registration of the Scheme Plan.
- (b) Subject to clause 1.4, on the registration of the Scheme Plan in respect to the Proposed Strata Lot or Proposed Community Lot (as applicable), the Deposit is treated as being held in accordance with clause 1.2.

1.4 Deposit - Future Lot Contract

If the Contract is a Future Lot Contract:

- (a) clause 1.1(c) does not apply;
- (b) clauses 1.2 and 1.3 do not apply until the condition in clause 13.9(a)(1) has been satisfied;

- (c) the Deposit or other amount payable by the Buyer under the Contract must be:
 - (1) paid by the Seller to a Deposit Holder specified in the Contract within 2 Business Days after receipt of the payment from the Buyer; and
 - (2) held by the Deposit Holder on trust for the person entitled to receive it under the Contract or the Sale of Land Act; and
- (d) the Deposit Holder must comply with the Sale of Land Act.

1.5 Notice of non-payment

If the Buyer:

- (a) does not pay the Deposit in full as required by the Contract; or
- (b) pays the Deposit by cheque and that cheque is dishonoured on presentation,

the Seller may give the Buyer a Notice requiring the Deposit to be paid or the cheque to be honoured within 48 hours of service of the Notice.

1.6 Termination for non-payment

- (a) If a Notice under clause 1.5 is not complied with:

- (1) the Buyer is in default; and
- (2) the Seller may terminate the Contract by giving notice of termination to the Buyer.

- (b) Clause 23.1 does not apply if clause 1.5 and this clause 1.6 apply.

1.7 Terms Contract and other right

Clauses 1.5 and 1.6 do not:

- (a) apply if the Contract is a Terms Contract; or
- (b) limit any other right of the Seller.

1.8 Direction to Deposit Holder

Subject to clause 1.11, and unless each Party otherwise agrees in writing, a Party is not entitled to direct the Deposit Holder to pay the Deposit to any person before the Possession Date.

1.9 Investment of Deposit

If requested by the Buyer and permitted by law, the Deposit Holder may pay the Deposit into an interest bearing trust account with a Deposit Financial Institution in the name of the Deposit Holder.

1.10 Interest on Deposit

- (a) Subject to clause 24.8, if the Deposit is invested by the Deposit Holder in an interest bearing account with a Deposit Financial Institution in accordance with clause 1.9, the Buyer is entitled to the interest, less:
 - (1) any fees or charges payable to the Financial Institution in respect to the lodgment and withdrawal of the Deposit; and
 - (2) any other amount required to be deducted by the Financial Institution under the Income Tax Act.
- (b) If the Buyer is entitled to interest on the Deposit, the Buyer is not entitled to be paid any interest until Settlement unless otherwise specified in the Contract.

1.11 Payment of Deposit on Settlement

Subject to clause 24, the Strata Titles Act, the Community Titles Act and the Sale of Land Act, each Party authorises the Deposit Holder to pay the Deposit to:

- (a) the Seller at Settlement; or
- (b) the Seller Representative before Settlement, but only for the purpose of enabling Settlement to occur.

1.12 Deduction from Deposit

The Seller irrevocably authorises the Deposit Holder to deduct from the Deposit before it is paid to the Seller or the Seller Representative:

- (a) the selling fee payable to the Seller Agent; and
- (b) all proper expenses payable by the Seller to the Seller Agent in connection with the sale of the Property.

2 Encumbrance

2.1 Noted Encumbrance

The Seller sells the Property free of any Encumbrance except for:

- (a) a Specified Encumbrance; and
- (b) if the Land is a Scheme Lot, the interests and notifications specified in clause 10.8.

2.2 Benefit of right over Land

If the Land is entitled to the benefit of a right over other land:

- (a) that benefit is not an Encumbrance; and
- (b) the Land is sold and transferred with that benefit.

2.3 Rate Encumbrance - Unpaid Rate Outgoing

- (a) Subject to subclause (b), if at Settlement the Land is subject to a Rate Encumbrance which arises from an Unpaid Rate Outgoing:
 - (1) if the Rate Encumbrance is registered on the Certificate of Title for the Land, the Seller must provide to the Buyer at Settlement any discharge, withdrawal or other document required to remove the Rate Encumbrance from the Certificate of Title for the Land;
 - (2) the Seller must arrange for the Unpaid Rate Outgoing to be paid at Settlement; and
 - (3) the Unpaid Rate Outgoing must be apportioned in accordance with clause 7.

- (b) If at Settlement the Land is subject to a Rate Encumbrance which arises from an Unpaid Rate Outgoing but the Rate Encumbrance is not registered on the Certificate of Title for the Land, then the Seller is not required to arrange for the Unpaid Rate Outgoing to be paid at Settlement if:
 - (1) the Seller Representative has, not later than 3 Business Days before the Settlement Date, provided a written undertaking to the Buyer Representative to:
 - (A) deduct from the settlement proceeds due to the Seller or otherwise hold in trust an amount equal to the amount required to pay that Unpaid Rate Outgoing; and
 - (B) pay that amount to the relevant Authority immediately following Settlement; or
 - (2) the Buyer Representative has, not later than 3 Business Days before the Settlement Date, provided a written undertaking to the Seller Representative to:
 - (A) hold money in trust from the Buyer at Settlement equal to the amount which is required to pay that Unpaid Rate Outgoing; and
 - (B) pay to the relevant Authority immediately following Settlement, that Unpaid Rate Outgoing.
- (c) If subclause (b)(1) applies, the Seller is treated as having given an irrevocable authority and direction to the Seller Representative:
 - (1) If applicable, to withhold the amount specified in subclause (b)(1) at Settlement; and
 - (2) to pay the Unpaid Rate Outgoing to the relevant Authority immediately after Settlement.
- (d) If subclause (b)(2) applies, the Buyer is treated as having given an irrevocable authority and direction to the Buyer Representative to pay the Unpaid Rate Outgoing to the relevant Authority immediately after Settlement.

2.4 Land sold subject to easement or restrictive covenant

If on the Contract Date:

- (a) the Land is subject to an easement or a restrictive covenant which is not a Specified Encumbrance;
- (b) the Land is not vacant land; and
- (c) the Land:
 - (1) includes a residence or other principal building which was used for a purpose before the Contract Date which use the Buyer would reasonably be expected to continue after Settlement; or
 - (2) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
- (d) the easement or restrictive covenant does not unreasonably affect the use specified in subclause (c)(1) or (c)(2).

the Land is treated as being sold subject to the easement or restrictive covenant and the Buyer has no right to terminate the Contract or to defer or delay Settlement as a result of the easement or restrictive covenant.

2.5 Land sold subject to Title Restriction

- (a) If:
 - (1) the Land is subject to a Title Restriction, which is not a Specified Encumbrance;
 - (2) the Land is vacant land; and
 - (3) the Buyer:
 - (A) was aware; or
 - (B) should reasonably have been aware, of the Title Restriction or the effect of the Title Restriction, before the Contract Date; and
 - (4) the Title Restriction does not:
 - (A) unreasonably affect the proposed use of the Property by the Buyer; or
 - (B) materially affect the value of the Property,

the Buyer is treated as having agreed to buy the Property subject to the Title Restriction and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Title Restriction.

- (b) If:
 - (1) the Land is subject to a Title Restriction, which is not a Specified Encumbrance;
 - (2) the Land is not vacant land; and
 - (3) the Land:
 - (A) includes a residence or other principal building which was used for a purpose before the Contract Date, which use the Buyer would reasonably be expected to continue after Settlement; or
 - (B) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
 - (4) the Buyer:
 - (A) was aware; or
 - (B) reasonably should have been aware, of the Title Restriction or the effect of the Title Restriction before the Contract Date; and
 - (5) the Title Restriction does not unreasonably affect the use specified in subclause (b)(3),

the Land is treated as having been sold subject to the Title Restriction and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Title Restriction.

2.6 Land sold subject to Remediated Site Memorial

- (a) If:
 - (1) the Land is a Remediated Site;
 - (2) a Remediated Site Memorial has been lodged against the Certificate of Title for the Land; and
 - (3) the Remediated Site Memorial is not a Specified Encumbrance, subclauses (b) and (c) apply.
- (b) If:
 - (1) the Land is vacant land; and
 - (2) the Restricted Use related to the Remediated Site Memorial does not:
 - (A) unreasonably affect the proposed use of the Property by the Buyer; or
 - (B) materially affect the value of the Property,

the Buyer is treated as having agreed to buy the Property subject to the Remediated Site Memorial and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Restricted Use or the Remediated Site Memorial.
- (c) If:
 - (1) the Land is not vacant land; and
 - (2) the Land:
 - (A) includes a residence or other principal building which was used for a purpose before the Contract Date which use the Buyer would reasonably be expected to continue after Settlement; or
 - (B) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
 - (3) the Restricted Use related to the Remediated Site Memorial does not unreasonably affect the use specified in subclause (c)(2),

the Land is treated as having been sold subject to the Remediated Site Memorial and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Restricted Use or the Remediated Site Memorial.

2.7 Buyer right to terminate

- (a) If:
 - (1) the Land is subject to an easement, a restrictive covenant, a Remediated Site Memorial or a Title Restriction which is not a Specified Encumbrance; and
 - (2) the Land is not treated as being sold subject to the easement, restrictive covenant, Remediated Site Memorial or Title Restriction in accordance with clauses 2.4 to 2.6,

the Buyer is entitled at any time up to 3 Business Days before the Settlement Date to terminate the Contract by giving Notice to the Seller.
- (b) If the Buyer fails to exercise the right to terminate within 3 Business Days before the Settlement Date in accordance with subclause (a), the Buyer loses the right to terminate under the Contract and at general law.
- (c) If the Buyer terminates the Contract in accordance with subclause (a):
 - (1) the Deposit and any other money paid by the Buyer under the Contract must be promptly repaid to the Buyer;
 - (2) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
 - (3) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
 - (4) subject to subclauses (c)(1) to (c)(3), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

2.8 Security Interest

- (a) If requested by the Buyer in writing, the Seller must give to the Buyer a reasonable time before Settlement, all information including accurate copies of source documents contemplated by Schedule 1 Part 1 of the PPS Regs sufficient for the Buyer to determine whether the Property Chattels are subject to a security interest to which the PPSA applies.
- (b) The Buyer must keep any information and supporting documents provided by the Seller in accordance with clause 2.8(a) secure and confidential (to the extent the information is not publicly available) and only use that information to search the PPSR.
- (c) If any of the Property Chattels are:
 - (1) subject to a security interest to which the PPSA applies; and
 - (2) not property free of the security interest pursuant to Chapter 2 Part 2.5 of the PPSA,

the Seller must:

 - (3) remove the security interest from the PPSR on or before the Settlement Date; or
 - (4) provide the Buyer a release of the security interest in a form acceptable to the Buyer (acting reasonably) on or before the Settlement Date; or
 - (5) otherwise deal with the security interest by written agreement with the Buyer.

3 Settlement

3.1 Preparation of Transfer

The Buyer must arrange for the Transfer to be prepared.

3.2 Delivery to Seller

The Buyer must:

- (a) sign the Transfer; and
- (b) deliver the Transfer to the Seller or the Seller Representative a reasonable time before the Settlement Date.

3.3 Duty

- (a) The Buyer must arrange for:
 - (1) Duty to be paid on the Contract; and
 - (2) the Transfer to be Duty Endorsed at Settlement or, if the Duty has been assessed through Revenue Online, a Certificate of Duty to be given at Settlement.
- (b) Following the delivery of the Transfer to the Seller or the Seller Representative in accordance with clause 3.2(b), the Seller must within a reasonable time sign the Transfer pending Settlement.
- (c) The Buyer must, on request by the Seller in writing, made not later than 20 Business Days after Settlement, provide to the Seller:
 - (1) an original of the Contract Duty Endorsed; or
 - (2) a photocopy of the Contract showing an endorsement as specified in subclause (c)(1),to enable the Seller to arrange for a duplicate of the Contract held by the Seller to be Duty Endorsed.
- (d) If the Buyer:
 - (1) provides to the Seller an original copy of the Contract Duty Endorsed; and
 - (2) requests the return of the Contract specified in subclause (d)(1),the Seller must, immediately after a duplicate of the Contract held by the Seller has been Duty Endorsed, return the copy of the Contract to the Buyer.
- (e) Subject to subclauses (g) to (i), the Buyer may make a request in writing to the Seller that:
 - (1) the Seller sign the Transfer; and
 - (2) the Seller Representative return the Transfer to the Buyer Representative,without payment by the Buyer of Duty on the Contract, and without the Transfer being Duty Endorsed, to be held by the Buyer Representative solely for:
 - (3) payment by the Buyer of Duty on the Contract before Settlement; and
 - (4) the Transfer being Duty Endorsed before and for the purpose of Settlement.
- (f) If Duty has been assessed and will be paid through Revenue Online:
 - (1) the Buyer may make a request in writing to the Seller that the Seller sign the Transfer; and
 - (2) if that request is made, the Seller must provide a copy of the Transfer signed by the Seller to the Buyer before the Settlement Date.
- (g) If the Seller provides the Transfer to the Buyer Representative in accordance with subclause (e) or (f):
 - (1) the Seller must provide the Transfer signed by the Seller to the Buyer Representative; and
 - (2) the Buyer is treated as having given unconditional undertakings to the Seller that the Buyer Representative must:
 - (A) hold the Transfer solely for the purpose of payment of Duty on the Contract, and for the Transfer to be Duty Endorsed for the purposes of Settlement; and
 - (B) promptly following a direction in writing by the Seller or the Seller Representative, deliver the Transfer to the Seller or the Seller Representative whether or not the Transfer has been Duty Endorsed.
- (h) If the Seller or the Seller Representative has provided the Transfer to the Buyer Representative in accordance with subclauses (e) and (g), the provision of the Transfer to the Buyer Representative is without prejudice to any right of the Seller arising from:
 - (1) any claim the Seller has or may have against the Buyer under clause 4 arising from a delay in Settlement; or
 - (2) without affecting subclause (h)(1), any default by the Buyer under the Contract.
- (i) If the Buyer Representative:
 - (1) is registered for Revenue Online; and
 - (2) has elected to have Duty on the Contract assessed and paid through Revenue Online,then:
 - (3) the Buyer must advise the Seller or the Seller Representative that the Buyer Representative has elected to have Duty on the Contract assessed and paid through Revenue Online;
 - (4) the Buyer must, within 5 Business Days after the Transaction Summary is generated, provide a copy of the Transaction Summary to the Seller or the Seller Representative; and
 - (5) on Settlement the Buyer must provide to the Seller or the Seller Representative a copy of the Certificate of Duty.

3.4 Place for Settlement

- (a) If the Contract specifies the time and place for Settlement, Settlement must take place at the time and place specified.
- (b) If the Contract does not specify the time for Settlement, the Buyer must specify the time for Settlement which must be during normal business hours on a Business Day.
- (c) If the Contract does not specify the place for Settlement, the Buyer must specify the place for Settlement which must be in the Perth CBD.

3.5 Completion of Settlement

Each Party must complete Settlement on:

- (a) the date for Settlement specified in the Contract; or
- (b) if no date for Settlement is specified in the Contract, the later of:
 - (1) the Business Day which is 25 Business Days after the Contract Date; and
 - (2) if the Contract is subject to a condition which, if not satisfied, will result in:
 - (A) termination of the Contract; or
 - (B) a Party being entitled to terminate the Contract,the Business Day which is 15 Business Days after the date on which the last condition is satisfied.

3.6 Balance of purchase price

- (a) The Buyer must on Settlement pay:
 - (1) to the Seller; or
 - (2) to any other person as the Seller or the Seller Representative has directed in writing not later than 2 Business Days before the Settlement Date,by 1 or more bank cheques:
 - (3) the balance of the Purchase Price; and
 - (4) any other money payable by the Buyer to the Seller at Settlement, less any deductions allowed under the Contract.
- (b) If there is a registered mortgage on the Land, the Seller must pay, or must request the Buyer to pay from the balance of the Purchase Price, the Landgate fee to register a discharge of the mortgage at Settlement.

3.7 Foreign Resident Withholding

- (a) This clause 3.7 applies (despite any other provision of the Contract) if:
 - (1) the market value of the Land is the Threshold Amount or more and the Seller does not provide a Clearance Certificate to the Buyer at least 2 Business Days before Settlement; or
 - (2) for any other reason the Buyer is obliged to pay a Withholding Amount to the Commissioner.
- (b) If this clause 3.7 applies:
 - (1) the Buyer must deduct the Withholding Amount from the Purchase Price and pay the Withholding Amount to the Commissioner by no later than Settlement; or
 - (2) if the Buyer provides to the Seller at Settlement:
 - (A) evidence from the Commissioner or the Australian Taxation Office that the Withholding Amount has been paid to the Commissioner; or
 - (B) a written undertaking from the Buyer Representative to pay the Withholding Amount to the Commissioner immediately following Settlement; or
 - (C) any other evidence relating to the payment of the Withholding Amount that is acceptable to the Seller,the Buyer is not required to pay that part of the Purchase Price to the Seller.
- (c) If subclause (b)(2)(B) applies, the Buyer is treated as having given an irrevocable authority and direction to the Buyer Representative to pay the Withholding Amount to the Commissioner immediately following Settlement.
- (d) Any Variation Notice not provided to the Buyer at least 2 Business Days before Settlement is to be disregarded for the purposes of determining the Withholding Amount.
- (e) If clause 3.12 applies, payment of the Withholding Amount under this clause 3.7 will be made as part of an 'Electronic Settlement'.

3.8 More than 3 Bank Cheques

If the Seller requires the Buyer to provide more than 3 Bank Cheques at Settlement, the Seller must pay to the Buyer at Settlement the additional bank fees incurred by the Buyer in order to obtain more than 3 Bank Cheques.

3.9 Settlement Cheque dishonoured

If a cheque provided by the Buyer at Settlement is dishonoured on presentation, the Buyer:

- (a) is in default; and
- (b) remains liable to pay to the Seller the amount of the cheque, together with interest on that amount at the Prescribed Rate:
 - (1) from and including the Settlement Date;
 - (2) to but excluding the date on which the Buyer pays that amount with interest to the Seller.

3.10 Seller obligation on Settlement

- (a) The Seller must at Settlement give the Buyer:
 - (1) subject to clause 3.11, the Duplicate Certificate of Title for the Land;
 - (2) the Transfer signed by the Seller;
 - (3) each other document, including:
 - (A) any transfer executed by a third party;
 - (B) every application, declaration and other document, necessary to enable the Buyer to become the registered proprietor of the Land free of any Encumbrance, other than:
 - (i) an Encumbrance specified in clauses 2.1(a) and 2.1(b); and
 - (ii) if applicable, an Encumbrance subject to which the Land is transferred in accordance with clause 2;
 - (4) all other documentation required to be delivered on Settlement including:
 - (A) any discharge or withdrawal of an Encumbrance which is required to be withdrawn or discharged on Settlement; and
 - (B) subject to subclause (b), the documentation specified in clauses 6.10 and 11.2;
- (b) If:
 - (1) possession of the Property has been given to the Buyer before Settlement; and
 - (2) the Seller has delivered the documentation specified in clause 6.10 to the Buyer on or after possession and before Settlement,the Seller has no obligation to deliver the documentation specified in clause 6.10 to the Buyer at Settlement.
- (c) If the Seller is required to deliver to the Buyer on Settlement a document as specified in subclause (3)(A), (3)(B) or (4)(B), the Seller must deliver to the Buyer a true copy of that document not later than 3 Business Days before the Settlement Date.
- (d) If the Seller is unable to transfer the Land to the Buyer free of Encumbrances, other than an Encumbrance specified in clause 2:
 - (1) the Seller is treated as being in default; and
 - (2) subject to clauses 23 and 24, the Buyer is entitled to exercise every right of the Buyer arising from that default.

3.11 No duplicate Certificate of Title

If a Duplicate Certificate of Title for the Land has not issued in accordance with Section 48B(1)(a) of the Transfer of Land Act, the Seller is not obliged to give the Duplicate Certificate of Title for the Land to the Buyer on Settlement under clause 3.10.

3.12 Electronic conveyancing

- (a) This clause 3.12 applies if:
 - (1) Landgate requires that the Contract is completed by an Electronic Settlement;
 - (2) the Contract specifies that there will be an Electronic Settlement; or
 - (3) the Parties agree to an Electronic Settlement.
- (b) Acceptance of an invitation to a Workspace by a Party is taken to be agreement for the purposes of subclause (a)(3).
- (c) If this clause 3.12 applies:
 - (1) it has priority over any other provision of the Contract to the extent of any inconsistency; and
 - (2) without limiting subclause (c)(1), any provision of the Contract requiring the physical preparation, signing, delivery or payment of anything that is dealt with digitally or electronically within or using the Workspace is amended accordingly.
- (d) Each Party must:
 - (1) be, or engage a Representative who is, a Subscriber;
 - (2) ensure that each other person for whom that Party is responsible and who is associated with the transaction is, or engages, a Subscriber;
 - (3) authorise their Representative to act on their behalf in the manner required by the ECNL; and
 - (4) conduct the transaction in accordance with the ECNL.
- (e) Unless Landgate requires that Settlement must be completed by an Electronic Settlement, and subject to subclause (g), a Party may elect not to proceed with an Electronic Settlement by giving written Notice to the other Party.
- (f) If a Withdrawal Notice is given, this clause 3.12 ceases to apply and Settlement is to be effected in accordance with the Contract otherwise than as an Electronic Settlement.
- (g) A Withdrawal Notice may not be given later than 5 Business Days before the Settlement Date unless Settlement cannot proceed as an Electronic Settlement. If a Withdrawal Notice is given less than 5 Business Days before the Settlement Date:
 - (1) the Withdrawal Notice must specify why Settlement cannot proceed as an Electronic Settlement; and
 - (2) at the written request of either Party, the Settlement Date may be extended to a date being not more than 5 Business Days after the date the Withdrawal Notice is given.
- (h) The Buyer or the Buyer Representative must:
 - (1) create a Workspace as soon as reasonably practicable;
 - (2) invite the Seller or the Seller Representative and any Financial Institution involved in the transaction to join the Workspace; and
 - (3) set the time for Settlement on the Settlement Date.

- (i) If the Buyer or the Buyer Representative fails to comply with subclause (h) within 10 Business Days before the Settlement Date, the Seller or the Seller Representative may:
 - (1) create a Workspace;
 - (2) invite the Buyer or the Buyer Representative and the relevant Financial Institutions to join the Workspace; and
 - (3) set the time for Settlement on the Settlement Date.
- (j) The Parties consent to written communications for the purposes of preparing for and facilitating Electronic Settlement being given and received electronically within the Workspace but not to any Notice being given in that manner.
- (k) Settlement occurs when the Workspace records that the exchange of funds or value (if any) between the Financial Institutions in accordance with the instructions of the Parties has occurred and the definition of 'Settlement' in clause 26.1 is amended accordingly.
- (l) Each Party must do everything reasonably necessary to:
 - (1) progress the transaction in the Workspace to Electronic Settlement on the Settlement Date at the time specified in the Workspace; and
 - (2) assist the other Party to trace and identify the recipient of any mistaken payment made under the Electronic Settlement and to recover the mistaken payment.
- (m) If Settlement in accordance with subclause (k) has not occurred by the Closing Time, the Parties must do everything reasonably necessary to effect Settlement:
 - (1) as an Electronic Settlement; or
 - (2) at the option of either Party, exercised by giving Notice to the other Party to that effect, otherwise than as an Electronic Settlement, on the next Business Day and time remains of the essence.
- (n) A Party is not in default under the Contract if:
 - (1) that Party is prevented from complying with an obligation because the other Party or the other Party's Financial Institution has not done something in the Workspace; or
 - (2) Electronic Settlement fails and does not occur by the Closing Time because a computer system of Landgate, the Office of State Revenue, the ELNO or the Reserve Bank of Australia is inoperative for any reason,but that Party must comply with that Party's obligations as soon as the event referred to in subclause (n)(1) or (n)(2) ceases to apply.
- (o) No Party may exercise any rights under the Contract or at law to terminate the Contract during the time that the Workspace is locked for Electronic Settlement.
- (p) Subject to subclause (m), nothing in this clause 3.12 affects the rights of a Party under the Contract if Settlement does not occur on or before the Settlement Date due to the delay or default by the other Party.
- (q) Each Party must pay that Party's own fees and charges for using the ELNO for Electronic Settlement.
- (r) In this clause 3.12:
 - (1) **Business Day** means any day except:
 - (A) a Saturday, Sunday or public holiday in Western Australia; or
 - (B) a public holiday on the same day in both of Victoria and New South Wales.
 - (2) **ECNL** means the Electronic Conveyancing National Law as adopted in Western Australia by the *Electronic Conveyancing Act 2014 (WA)*;
 - (3) **Electronic Settlement** means Settlement and the lodgment of the documents necessary to record the Buyer as registered proprietor of the Land facilitated by the ELNO;
 - (4) **ELNO** has the meaning set out in the ECNL;
 - (5) **Closing Time** means the time the ELNO usually closes for settlement transactions in Western Australia on the Settlement Date;
 - (6) **Subscriber** means a subscriber under the ECNL;
 - (7) **Withdrawal Notice** means a Notice given under clause 3.12(e); and
 - (8) **Workspace** means an 'Electronic Workspace' as defined in the participation rules made under the ECNL for the transaction within the ELNO.

4 Delay in Settlement

4.1 Buyer delay

- (a) If for any reason not attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Buyer must pay to the Seller at Settlement interest on:
 - (1) the balance of the Purchase Price; and
 - (2) any other money payable at Settlement.
- (b) The right of the Seller to interest under this clause 4.1 is in addition to the entitlement of the Seller to Rent under clause 6.7.

4.2 Seller delay

- If for any reason attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Seller must allow to the Buyer at Settlement, as a deduction from the Purchase Price, compensation equal to interest on:
- (a) the balance of the Purchase Price; and
 - (b) any other money payable at Settlement.

4.3 Interest or compensation

Interest payable under clause 4.1 and compensation allowable under clause 4.2 is to be calculated:

- (a) at the Prescribed Rate; and
- (b) from and including the Settlement Date to but excluding the date on which Settlement occurs,

and is treated as being in full satisfaction of any claim the Party claiming interest or compensation has against the other Party as a result of the delay in Settlement.

4.4 Seller ready, willing and able

- (a) If the Seller is not ready, willing and able to complete Settlement on the Settlement Date, the Seller is not entitled to interest under clause 4.1 until the Seller:
 - (1) is ready, willing and able to complete Settlement; and
 - (2) has given Notice of that fact to the Buyer.
- (b) If a Notice is given in accordance with subclause (a) within 3 Business Days after the Settlement Date, interest is calculated and payable from and including the Settlement Date to but excluding the date on which Settlement occurs.
- (c) If a Notice is given in accordance with subclause (a), later than 3 Business Days after the Settlement Date, interest is calculated and payable from and including the day on which the Notice is given up to but excluding the date on which Settlement occurs.

4.5 Buyer ready, willing and able

- (a) If the Buyer is not ready, willing and able to complete Settlement on the Settlement Date, the Buyer is not entitled to compensation under clause 4.2 until the Buyer:
 - (1) is ready, willing and able to complete Settlement; and
 - (2) has given Notice of that fact to the Seller.
- (b) If a Notice is given in accordance with subclause (a) within 3 Business Days after the Settlement Date, compensation is calculated and payable from and including the Settlement Date to but excluding the date on which Settlement occurs.
- (c) If a Notice is given in accordance with subclause (a) later than 3 Business Days after the Settlement Date, compensation is calculated from and including the day on which the Notice is given up to but excluding the date on which Settlement occurs.

4.6 Dispute – interest or compensation

- (a) If:
 - (1) the Interest Party claims that the Interest Default Party is liable to pay interest or compensation under clauses 4.1 to 4.5; and
 - (2) the Interest Default Party disputes the entitlement of the Interest Party to the interest or compensation,this clause 4.6 will apply.
- (b) Subject to subclause (h), and if the Interest Party requires the Interest Default Party to pay interest or compensation under clauses 4.1 to 4.5 at Settlement, the Interest Party must not later than 2 Business Days before Settlement, serve an Interest Notice on the Interest Default Party setting out:
 - (1) the basis on which the claim for interest or compensation is made; and
 - (2) the amount claimed, which may include an amount to be calculated on a daily basis.
- (c) The Interest Default Party must pay the Interest Amount on Settlement to:
 - (1) the Representative of the Interest Party; or
 - (2) if the Interest Party has not appointed a Representative, then to the Representative of the Interest Default Party; or
 - (3) if subclauses (c)(1) and (c)(2) do not apply, then to the Interest Party, to be held by the Representative or the Interest Party subject to and for the purposes specified in this clause.
- (d) On the day which is 20 Business Days after Settlement, unless:
 - (1) the dispute has been resolved between the Parties; or
 - (2) court proceedings are Instituted by a Party to determine the dispute,the Representative who holds the Interest Amount must pay the Interest Amount to the Interest Party or, if applicable, the Interest Party may retain the Interest Amount.
- (e) If:
 - (1) court proceedings are Instituted by a Party as specified in subclause (d); or
 - (2) an agreement is reached between the Interest Party and the Interest Default Party with regard to the dispute,the Representative who holds the Interest Amount or, if applicable, the Interest Party must pay the Interest Amount, as applicable:
 - (3) as determined in accordance with the court proceedings; or
 - (4) in accordance with the agreement between the Parties.
- (f) If the Interest Default Party disputes the entitlement of the Interest Party to interest or compensation under clauses 4.1 to 4.5:
 - (1) that dispute does not affect the obligations of the Parties to proceed to Settlement; and
 - (2) subject to the obligation of the Interest Default Party to pay the Interest Amount on Settlement in accordance with this clause, the Parties must proceed to Settlement.

- (g) Each Party authorises a Representative who holds the Interest Amount under this clause to:
 - (1) pay; and
 - (2) otherwise deal with,the Interest Amount as specified in this clause.
- (h) This clause 4.6 does not affect the right of the Interest Party after Settlement to claim and, if appropriate, institute proceedings against the Buyer to recover, an amount of interest or compensation as specified in clauses 4.1 to 4.5.

4.7 Restriction on right in case of court proceeding

- (a) The right of a Party under this clause 4 to interest or compensation ceases from and including the date on which court proceedings are Instituted by a Party for:
 - (1) specific performance of the Contract; or
 - (2) a declaration that the Contract:
 - (A) has been terminated; or
 - (B) remains valid and enforceable; or
 - (3) any other order or declaration to the same or similar effect to an order or declaration as specified in subclause (a)(1) or (a)(2); or
 - (4) other relief based on the Contract having been terminated.
- (b) It is the intention of the Parties that if there is a delay in respect to Settlement, interest or compensation payable under this clause 4 represents the best estimate as to the damages sustained arising from the delay.
- (c) If court proceedings are Instituted by a Party in accordance with subclause (a), nothing in the Contract:
 - (1) restricts, limits or prejudices the entitlement of a Party to claim interest under an Act or by way of damages or compensation; or
 - (2) limits or otherwise affects the discretion of the court.

4.8 Right not affected

The rights of a Party under this clause 4 do not affect the rights of a Party under clause 24.

5 Inspection

5.1 Right to inspect

- (a) Subject to clause 5.2 and subclause (b):
 - (1) the Buyer is entitled to inspect the Property to check that the Seller has complied with the Seller's obligations under the Contract; and
 - (2) the Seller must grant access to the Property to enable the Buyer to inspect the Property for that purpose,on 1 occasion within 5 Business Days before the Possession Date.
- (b) If following an inspection under subclause (a) the Buyer identifies items that require rectification by the Seller under the Contract, the Buyer may give Notice of those items to the Seller following which:
 - (1) the Buyer is entitled to inspect the Property to check that the Seller has rectified those items; and
 - (2) the Seller must grant access to the Property to enable the Buyer to inspect the Property for that purpose,on 1 further occasion before the Possession Date.
- (c) The Buyer may be accompanied by 2 persons on an inspection.
- (d) If the Buyer is a corporation, the reference in this clause 5.1 and in clause 5.2 to the Buyer means a reference to a director, secretary or officer of the corporation or any other person nominated by the corporation.

5.2 Time for inspection

- (a) Subject to subclause (b), if the Buyer wishes to inspect the Property as specified in clause 5.1, the Buyer and the Seller must endeavour to agree the date and time for the inspection.
- (b) If the Buyer and the Seller do not reach agreement by 5 Business Days before the Settlement Date, the Buyer may by not less than 1 Business Day's Notice to the Seller or the Seller Agent specify the date and time for the inspection.
- (c) The inspection must be:
 - (1) on a Business Day; and
 - (2) at a time between 9.00am and 4.00pm.
- (d) Where the Buyer serves Notice under subclause (b) which complies with subclause (c), the Seller must permit the Buyer to inspect the Property at the time and on the date specified in that Notice.
- (e) This clause 5.2 applies in respect of each inspection to which the Buyer is entitled under clause 5.1.

6 Possession and Rent

6.1 Entitlement to possession

- (a) Subject to clauses 6.2 and 6.3, the Buyer is entitled to possession of the Property on the earlier of:
 - (1) the date for possession (if any) specified in the Contract; and
 - (2) Settlement.
- (b) Subject to clause 6.3, and without affecting the rights of the Buyer on possession, if the Property is not sold subject to a Lease:
 - (1) the Buyer is entitled to vacant possession of the Property; and
 - (2) the Seller must remove from the Property before the Possession Date, all vehicles, rubbish and chattels, other than the Property Chattels.

6.2 Early possession

If the Buyer is given possession of the Property before Settlement:

- (a) for a period of less than one month, then clauses 14.6 to 14.9 apply until Settlement; or
- (b) for a period of one month or longer, then:
 - (1) clauses 14.6 to 14.9 apply until Settlement subject to the Residential Tenancies Act; and
 - (2) the Parties must comply with the Residential Tenancies Act.

6.3 Principal residence – limited occupation right

- (a) If immediately before Settlement, the Seller occupies the Property as the Seller's principal place of residence, the Seller may, subject to clause 6.4, remain in occupation of the Property until 12 noon on the day immediately following Settlement.
- (b) If subclause (a) applies and the Seller remains in occupation of the Property in accordance with subclause (a):
 - (1) the Seller must entirely vacate the Property by 12 noon on the day immediately following Settlement; and
 - (2) the Buyer is entitled to possession, and the Seller must give to the Buyer possession, of the Property at 12 noon on the day immediately following Settlement.

6.4 Damage to Property

If clause 6.3 applies:

- (a) the Seller is responsible to the Buyer for damage caused to the Property between:
 - (1) Settlement; and
 - (2) possession of the Property being given to the Buyer under clause 6.3; and
- (b) if damage is caused to the Property between Settlement and possession, the Seller must pay to the Buyer the cost of repairing the damage immediately on request by the Buyer.

6.5 Keys and security devices

- (a) Subject to subclauses (b) to (d), the Seller must deliver the Access Device to the Buyer on the Possession Date.
- (b) If clause 6.3 applies, the Seller must, at the time of giving possession of the Property to the Buyer, deliver to the Buyer the Access Device.
- (c) If agreed by the Buyer, the Access Device may be delivered to, and be held by, the Seller Agent for delivery to the Buyer following Settlement.
- (d) If subclause (c) applies, the Seller:
 - (1) must deliver the Access Device to the Seller Agent at a time sufficient to enable the Seller Agent to comply with subclause (c); and
 - (2) is treated as having authorised and directed the Seller Agent to deliver the Access Device to the Buyer in accordance with subclause (c).

6.6 Lease Provisions apply

Clauses 6.7 to 6.10 inclusive apply if the Contract provides that the Property is sold subject to the Lease.

6.7 Rent

- (a) The Seller is entitled to all Rent up to and including the Possession Date.
- (b) The Buyer is entitled to all Rent from and including the day after the Possession Date.

6.8 Rent paid before Settlement

- (a) The Seller must pay to the Buyer at Settlement any Rent:
 - (1) to which the Buyer is entitled under clause 6.7; and
 - (2) which was paid to the Seller before the Possession Date.
- (b) The Seller is not obliged to pay to the Buyer on Settlement any Rent which was payable by a Tenant under a Lease but is unpaid on the Possession Date.

6.9 Rent received after Settlement

If after Settlement either Party is paid Rent to which the other Party is entitled, the Party receiving the money must pay the money to the Party entitled to it as soon as reasonably possible.

6.10 General provisions where property leased

If the Property is on the Possession Date subject to a Lease:

- (a) the Seller must deliver to the Buyer on the Possession Date:
 - (1) if the Lease is in writing, an original or true copy of the Lease showing signing by the Parties; and
 - (2) if the Lease is liable to be assessed for Duty, the original or a true copy of the Lease delivered by the Seller to the Buyer under subclause (a)(1), showing that the Lease has been Duty Endorsed; and
 - (3) if the Lease is an oral lease or tenancy agreement, a written memorandum setting out all relevant details applicable to the Lease which are applicable on the Possession Date; and
 - (4) a statement which shows:
 - (A) the Rent payable for the Rent Period during which the Possession Date occurs; and
 - (B) the amount paid by the Tenant before the Possession Date in respect to the Rent Period specified in subclause (a)(4)(A); and
 - (5) any Property Condition Report that has been prepared in respect to the premises the subject of the Lease; and

- (6) if the Tenant has provided a Tenant Bond under the Lease, the Tenant Bond and any interest which has accrued on the Tenant Bond:
 - (A) by payment of a Bank Cheque in favour of the Buyer for the amount of the Tenant Bond; or
 - (B) by the provision of documentation which will effect the transfer of the Seller's rights in respect to the Tenant Bond to the Buyer; and
- (7) a Notice signed by the Seller or the Seller Representative, addressed to each Tenant, in a form reasonably determined by the Seller:
 - (A) in which the Seller notifies the Tenant of the sale of the Property to the Buyer; and
 - (B) which directs the Tenant to pay all Rent as from the Possession Date to the Buyer or as otherwise directed by the Buyer in writing.
- (b) Subject to clause 6.9, if, on the Possession Date, Rent was due to the Seller and has not been paid by the Tenant:
 - (1) the Buyer assigns to the Seller the unpaid Rent;
 - (2) the Buyer must immediately on request by the Seller sign:
 - (A) a deed of assignment of that unpaid Rent in favour of the Seller; and
 - (B) a notice to the Tenant of the assignment, which deed and notice of assignment must be prepared by the Seller at the expense of the Seller; and
 - (3) the Seller may institute proceedings against the Tenant for the unpaid Rent.
- (c) If a person has:
 - (1) guaranteed the obligations of the Tenant under the Lease; and
 - (2) executed the Lease as a guarantor, the Seller is, unless the guarantee specifies otherwise, treated as having assigned to the Buyer the benefit of that guarantee.
- (d) If a person has:
 - (1) guaranteed the obligations of the Tenant under the Lease; and
 - (2) executed a guarantee document which is not included in the Lease, the Seller must deliver that guarantee document to the Buyer at the time specified in subclause (a) and, unless the guarantee document otherwise specifies, the Seller is treated as having assigned the benefit of the guarantee to the Buyer.
- (e) If subclause (d) applies and the guarantee document is liable to be assessed for Duty, the original or a true copy of the guarantee document delivered by the Seller to the Buyer under subclause (d) must show that the guarantee document has been Duty Endorsed.
- (f) If a guarantee as incorporated in a Lease or guarantee document provides that the guarantee is not capable of assignment, except with the approval of the guarantor, the Seller must on request by the Buyer cooperate with the Buyer in requesting the guarantor to grant approval for the assignment of the guarantee to the Buyer.
- (g) Any fee payable to a guarantor in relation to an assignment referred to in subclause (f) must be paid by the Buyer.

7 Outgoing

7.1 Seller and Buyer obligation

Subject to this clause 7:

- (a) the Seller must pay each Outgoing payable up to and including the Possession Date; and
- (b) the Buyer must pay each Outgoing payable from and including the day after the Possession Date.

7.2 Apportionment

Subject to this clause 7 an Outgoing must be apportioned under clause 7.1 and any amount payable by one Party to the other must be paid:

- (a) at Settlement; or
- (b) if the Contract is a Terms Contract, on the Possession Date; or
- (c) at a later time agreed by the Parties in writing.

7.3 Buyer not liable for Land Tax

The Buyer is not liable to pay any amount on account of Land Tax if the Property is at the Possession Date a residence which is capable of being used as a residence and for no other purpose.

7.4 Settlement Date 30 June

- (a) If:
 - (1) the Settlement Date is before or on 30 June; and
 - (2) Settlement does not occur before 5 pm on 30 June for a reason attributable to the Buyer,the Buyer must pay to the Seller any Land Tax assessed in respect to the Land as at midnight on 30 June calculated as if the Land is the only land owned by the Seller.
- (b) If:
 - (1) the Settlement Date is before or on 30 June;
 - (2) a separate Certificate of Title for the Land has been issued before 1 June;
 - (3) the Seller has given a Notice to the Buyer not later than 15 Business Days before the Settlement Date, that:
 - (A) the Seller is the registered proprietor of land other than the Land; and
 - (B) the Land and that other land are liable to Land Tax; and

(4) Settlement does not occur before 5:00pm on 30 June for a reason attributable to the Buyer,

the Buyer must pay to the Seller at Settlement the Land Tax assessed in respect to the Land for the Financial Year which commences on 1 July following the date specified in subclause (b)(1).

- (c) Subject to subclause (d):
- (1) the Notice as specified in subclause (b)(3) may, subject to the Contract Date being before 1 June, be incorporated in the Contract; and
 - (2) if the Notice is incorporated in the Contract in accordance with subclause (c)(1), that Notice is treated as having been given in accordance with subclause (b)(3).
- (d) Subclause (c) does not apply unless before 1 June:
- (1) a separate Certificate of Title for the Land has issued; and
 - (2) the Buyer has been given Notice by the Seller of the issue of that separate Certificate of Title for the Land.

7.5 Land Tax - Subdivided Land

- (a) If on the Possession Date:
- (1) the Property is not a residence as described in clause 7.3; and
 - (2) the Land is the subject of a subdivision after the commencement of the Financial Year in which the Possession Date occurs,
- Land Tax will be apportioned as specified in subclause (b).
- (b) If subclause (a) applies, Land Tax is apportioned and payable as an Outgoing in accordance with clauses 7.1 and 7.2 on the basis that the Land Tax payable in respect to the Land is:
- (1) the same proportion as the area of the Land bears to the total area of the Subdivision Land; and
 - (2) the Subdivision Land is the only land owned by the Seller.

7.6 Land Tax general

- (a) If clause 7.3 applies, the Seller must pay all Land Tax assessed in respect to the Property.
- (b) Except as provided in clause 7.3, and subject to clauses 7.4 and 7.5, Land Tax must be apportioned:
- (1) as an Outgoing and paid as provided in clauses 7.1 and 7.2; and
 - (2) otherwise on the basis that the Land is the only land owned by the Seller.

7.7 Future Rate Outgoing

- (a) If at Settlement the Land will be subject to a Future Rate Outgoing:
- (1) the Seller must procure the Seller Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Buyer Representative that at Settlement, the Seller Representative will:
 - (A) hold in trust an amount, which must be specified in that undertaking, sufficient to pay the proportion of the Future Rate Outgoing which is payable by the Seller; and
 - (B) immediately after the assessment of the Future Rate Outgoing, pay the Seller's proportion of the Future Rate Outgoing to the relevant Authority; and
 - (2) the Buyer must procure the Buyer Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Seller Representative that at Settlement, the Buyer Representative will:
 - (A) hold in trust an amount specified by the Buyer Representative in that undertaking, which is sufficient to pay the proportion of the Future Rate Outgoing payable by the Buyer; and
 - (B) immediately after the assessment of the Future Rate Outgoing, pay the Buyer's proportion of the Future Rate Outgoing to the relevant Authority.
- (b) If there is a dispute as to the amount to be held by the Seller Representative and the Buyer Representative in accordance with subclause (a), that dispute must be determined by the Seller Agent.
- (c) If there is no Seller Agent, the amount to be held by the Seller Representative and the Buyer Representative must be determined by a Real Estate Agent appointed by the Buyer.
- (d) If the dispute is determined by the Seller Agent or a Real Estate Agent:
- (1) the Seller Agent or the Real Estate Agent must act as an expert and not as an arbitrator;
 - (2) the determination of the Seller Agent or the Real Estate Agent is final and binding on the Seller and the Buyer; and
 - (3) if any cost is payable to the Seller Agent or a Real Estate Agent for determining a dispute, as specified in subclause (b) and (c), that cost must be paid by the Buyer and the Seller in equal shares.
- (e) If subclause (a)(1) applies, the Seller is treated as having given to the Seller Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(1).
- (f) If subclause (a)(2) applies, the Buyer is treated as having given to the Buyer Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(2).

8 Risk

8.1 Passing of risk

Despite any rule of law or equity to the contrary, risk relating to the Property passes from the Seller to the Buyer at the time when the:

- (a) Purchase Price is paid in full; or
 - (b) Settlement occurs; or
 - (c) Buyer is given possession of the Property;
- whichever first occurs.

8.2 Damage or destruction

- (a) If the Property includes a building or other improvement which is:
- (1) destroyed; or
 - (2) partially damaged,
- before Settlement, subclause (b) applies.
- (b) If:
- (1) the building is a residence and is made substantially uninhabitable; or
 - (2) in any other case, a building or other improvement is made substantially unusable for the current use as at the Contract Date;
- clauses 8.3 to 8.7 apply.

8.3 Notice of damage or destruction

The Seller must, immediately following the damage or destruction referred to in clause 8.2, give Notice to the Buyer specifying:

- (a) full particulars of the damage or destruction;
- (b) that the Buyer may, within 15 Business Days of service of the Notice, terminate the Contract; and
- (c) that it is desirable for the Buyer to obtain legal advice following service of the Notice.

8.4 Right of Buyer to terminate

The Buyer may, within 15 Business Days of the service of Notice under clause 8.3, give Notice to the Seller that the Buyer has elected to terminate the Contract.

8.5 Right of Seller to terminate

- If:
- (a) clause 8.2 applies;
 - (b) the Seller has insured the building or improvement specified in clause 8.2 against damage or destruction;
 - (c) the Seller within 5 Business Days after the damage or destruction specified in clause 8.2, notifies the insurer of a claim for the loss arising from the damage or destruction;
 - (d) the Seller in notifying the claim in accordance with subclause (c), makes a request to the insurer that the insurer make a cash payment to the Seller in respect to the loss; and
 - (e) the insurer has not within 10 Business Days after notification or the lodgment of the claim by the Seller, whichever is the later, agreed in writing to provide a cash payment to the Seller to compensate the Seller for the loss,

the Seller may within 15 Business Days of the service of the Notice in accordance with clause 8.3, by Notice to the Buyer or the Buyer Representative, terminate the Contract.

8.6 Termination

- If:
- (a) the Buyer gives a Notice to the Seller in accordance with clause 8.4; or
 - (b) the Seller gives a Notice to the Buyer in accordance with clause 8.5,
- then
- (c) subject to subclauses (d) to (g), the Contract is terminated as from and including the date of service of that Notice;
 - (d) the Deposit, and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
 - (e) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
 - (f) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
 - (g) subject to subclauses (d) to (f), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

8.7 Right of Buyer to proceed

If the Buyer, within 15 Business Days of the service of Notice under clause 8.3:

- (a) gives Notice to the Seller that the Buyer intends to proceed with the Contract; or
 - (b) does not give a Notice under subclause (a) or clause 8.4,
- the Contract will, unless the Seller has given a Notice to the Buyer in accordance with clause 8.5, remain valid and enforceable, but clause 8.8 and 8.9 apply.

8.8 Reduction of Purchase Price

If clause 8.7 applies:

- (a) the Purchase Price is reduced by the amount of the reduction in value of the Property following the damage or destruction;

- (b) the amount of the reduction of the Purchase Price is, subject to this clause 8.8, the amount which is agreed in writing between the Seller and the Buyer within 30 Business Days of the date of service of the Notice under clause 8.3;
- (c) if the reduction of the Purchase Price is not agreed in writing between the Seller and the Buyer, the amount of the reduction of the Purchase Price must, subject to subclause (d), be determined by arbitration in accordance with clause 25.1; and
- (d) even if:
 - (1) the period specified in subclause (b) has expired; and
 - (2) arbitration proceedings have commenced under subclause (c),
 the Buyer and the Seller may at any time agree in writing the amount of the reduction of the Purchase Price.

8.9 Variation of Settlement Date

If the Contract proceeds in accordance with clause 8.7 the Settlement Date is the date which is 10 Business Days after the amount of the reduction of the Purchase Price has been:

- (a) agreed between the Buyer and the Seller; or
- (b) determined by arbitration.

9 Seller Representation and Warranty

9.1 As at Contract Date and Possession Date

Except to the extent disclosed in writing by the Seller to the Buyer before the Contract Date, or as otherwise specified in the Contract, the Seller represents and warrants to the Buyer on the Contract Date (and is taken to repeat those representations and warranties at the Possession Date) that:

- (a) the Seller does not know of:
 - (1) any demand, order, requisition or requirement relating to the Property which:
 - (A) has been made by an Authority and remains current; or
 - (B) which an Authority proposes to make;
 - (2) any proposal by an Authority:
 - (A) for the realignment, widening or alteration of the level of any road adjoining the Land; and
 - (B) which would be likely to materially affect the Land or the use of it;
 - (3) any obligation to pay money to an Authority in respect of:
 - (A) work performed or to be performed; or
 - (B) expenses incurred or to be incurred, by an Authority in relation to the Land;
 - (4) except in relation to a Scheme Lot, any sewer, drain, pipe, cable or other installation passing through the Land to provide services to other land;
 - (5) any obligation to:
 - (A) construct or repair; or
 - (B) contribute towards the cost of construction or repair of, a dividing fence between the Land and any adjoining land whether arising under the *Dividing Fences Act 1961* or otherwise; or
 - (6) any encroachment on the Land by a building or other structure on adjoining land;
- (b) no building or other structure on the Land encroaches on adjoining land;
- (c) as far as the Seller is aware, each dividing fence and wall is on the boundary of the Land;
- (d) the Seller:
 - (1) has good title to the Property Chattels; and
 - (2) is, or will be the sole owner of the Property Chattels;
- (e) except as otherwise specified in the Contract, the Property Chattels will be free of any Encumbrance;
- (f) subject to clause 6.1(b), the Property will be in the same state and condition it was in immediately before the Contract Date; and
- (g) as far as the Seller is aware:
 - (1) no person has any right arising from adverse possession;
 - (2) no public right of way or easement has been acquired by enjoyment or use; and
 - (3) no mining lease or licence has been issued under any Act, in respect to the Land.

9.2 Contract Date

Except as otherwise disclosed in writing by the Seller to the Buyer before the Contract Date, the Seller represents and warrants to the Buyer on the Contract Date that:

- (a) the Seller:
 - (1) has not received a notice of resumption of; and
 - (2) does not know of any intention to resume, the Land by an Authority; and
- (b) the use of the Property is lawful.

9.3 Breach or non-satisfaction of warranty

If the Seller is in breach of a representation or warranty in clause 9.1, 9.2 or 10.2, then, unless the Parties otherwise agree, the Buyer has no right to terminate the Contract or defer or delay Settlement or withhold any part of the Purchase Price, however:

- (a) if the breach unreasonably affects the proposed use of the Property by the Buyer or materially affects the value of the Property, the Buyer may exercise its rights arising at law; and

- (b) this clause does not limit any rights of a Party arising at law or elsewhere in the Contract, including any rights referred to in clause 10.3(b).

10 Strata or community title

10.1 When this clause applies

This clause 10 applies if the Land is a Scheme Lot.

10.2 Representation and Warranty

Except to the extent disclosed in writing by the Seller to the Buyer before the Contract Date, or as otherwise specified in the Contract, the Seller represents and warrants to the Buyer on the Contract Date (and is taken to repeat those representations and warranties at the Possession Date) that:

- (a) the Seller has paid:
 - (1) each Scheme Contribution levied by the Scheme Corporation in respect of the Scheme Lot except for any Scheme Contribution which is to be apportioned under clause 7.2 or 10.6;
 - (2) all other money due to the Scheme Corporation in consideration of any right or privilege granted by the Scheme Corporation in respect of the Scheme Lot;
 - (3) all money due to the Scheme Corporation for:
 - (A) work carried out by the Scheme Corporation in relation to the Scheme Lot; or
 - (B) the provision by the Scheme Corporation of an amenity or service to the Scheme Lot or to the proprietor or occupier of the Scheme Lot;
 - (4) any other money due by the Seller to the Scheme Corporation; and
 - (5) all interest due to the Scheme Corporation on the money specified in subclauses (a)(1), (a)(2), (a)(3) and (a)(4);
- (b) no administrator of the Scheme Corporation has been appointed;
- (c) except for anything:
 - (1) apparent on an inspection of the Scheme Lot and the parcel of which it forms part; or
 - (2) registered or recorded on the Scheme Plan; or
 - (3) specified in the by-laws of the Strata/Community Scheme,
 the Seller does not know of anything which will materially affect the Buyer's use or enjoyment of the Scheme Lot or of the common property comprised in the Strata/Community Scheme;
- (d) the Seller does not know of any proposal or application to terminate the Strata/Community Scheme;
- (e) the Seller does not know of any current, proposed or pending proceeding or application in relation to the:
 - (1) Strata/Community Scheme;
 - (2) Scheme Corporation; or
 - (3) Scheme Lot,
 in a court or tribunal;
- (f) the Seller does not know of any judgment or order of the State Administrative Tribunal, a court, or other relevant tribunal or judicial or administrative body in respect to the:
 - (1) Scheme Corporation;
 - (2) Strata/Community Scheme; or
 - (3) Scheme Lot,
 which has not been satisfied or complied with;
- (g) other than changes recorded on the Scheme Plan, no change to the by-laws of the Strata/Community Scheme has been:
 - (1) voted on by the Scheme Corporation; or
 - (2) ordered by a court or tribunal;
- (h) no money is owing to the Scheme Corporation for work carried out by the Scheme Corporation in relation to the Scheme Lot;
- (i) the Seller does not know of any change which:
 - (1) has been made; or
 - (2) is proposed,
 to the by-laws of the Strata/Community Scheme other than changes recorded on the Scheme Plan;
- (j) the Seller does not know of any action taken or any proposal to:
 - (1) vary the schedule of unit entitlement recorded on the Scheme Plan;
 - (2) grant, vary or surrender any easement or restrictive covenant affecting the Scheme Lot or any other part of the parcel;
 - (3) transfer, lease, licence or resume any part of the Scheme Lot or the common property;
 - (4) take a lease of land outside the parcel;
 - (5) obtain, vary or surrender a lease of land outside the parcel; or
 - (6) obtain an expenditure approval under Section 102(6)(b) of the Strata Titles Act;
- (k) the Seller does not know of any proposal by the Scheme Corporation to pass any resolution which will:
 - (1) adversely affect the use and enjoyment by the Buyer of the Scheme Lot or of the common property; or
 - (2) increase any Outgoing in respect to the Scheme Lot;
- (l) the information referred to in Section 156 of the Strata Titles Act or Section 130 of the Community Titles Act and provided to the Buyer by or on behalf of the Seller is correct; and
- (m) the Seller does not know of any fact or circumstance which may result in:
 - (1) proceedings in the State Administrative Tribunal; or
 - (2) proceedings before a court,
 being instituted against the registered proprietor of the Scheme Lot in respect to any matter relating to:

- (3) the common property;
- (4) the Scheme Lot; or
- (5) any action or liability arising under, or referred to in, Section 103 of the Strata Titles Act or Section 88 of the Community Titles Act.

10.3 Indemnity by Seller and right of Buyer

- (a) Except for a matter in respect to which the Buyer has agreed in writing to be bound, the Seller indemnifies and agrees to indemnify the Buyer against any Loss the Buyer may suffer or incur as a result of a breach by the Seller of a representation or warranty in clause 10.2:
 - (1) as the registered proprietor of the Scheme Lot; and
 - (2) which arises from a fact or circumstance which occurs before the Possession Date.
- (b) The right of the Buyer to terminate the Contract under Part 10 of the Strata Titles Act or Part 10 of the Community Titles Act:
 - (1) does not affect; and
 - (2) is in addition to,
 every other right of the Buyer arising from the default of the Seller under the Contract.

10.4 Voting

On and from the Contract Date until the Buyer becomes registered as the proprietor of the Scheme Lot:

- (a) the Seller must:
 - (1) immediately notify the Buyer if the Seller becomes aware of any proposal for members of the Scheme Corporation to vote on a resolution in respect to the Scheme Corporation; and
 - (2) provide a copy of the proposed resolution to the Buyer;
- (b) the Seller must, if required by the Buyer by Notice, vote in the manner directed by the Buyer in respect to any resolution proposed to be passed by the members of the Scheme Corporation;
- (c) if a section 102(6)(b) Strata Notice is given to each proprietor in the Strata Titles Scheme:
 - (1) the Seller must immediately give Notice to the Buyer of:
 - (A) the Section 102(6)(b) Strata Notice;
 - (B) the date of service of the Section 102(6)(b) Strata Notice; and attach to the Notice from the Seller a copy of the Section 102(6)(b) Strata Notice;
 - (2) the Buyer may, following the service of the Notice under subclause (c)(1), serve a Notice on the Seller directing the Seller to notify the council of the Scheme Corporation that the Seller objects to the expenditure specified in the Section 102(6)(b) Strata Notice; and
 - (3) if the Buyer gives a Notice to the Seller in accordance with subclause (c)(2), the Seller must immediately notify the council of the Scheme Corporation that the Seller objects to the expenditure specified in the Section 102(6)(b) Strata Notice;
- (d) the Seller must not, and must ensure that any mortgagee of the Scheme Lot does not, without the prior approval in writing of the Buyer:
 - (1) propose; or
 - (2) vote in favour of,
 any resolution of the Scheme Corporation; and
- (e) the Seller must ensure that any mortgagee of the Scheme Lot does not, without the prior approval in writing of the Buyer, vote in favour of any proposed expenditure referred to in a Section 102(6)(b) Strata Notice.

10.5 Scheme Corporation application

- (a) Subject to subclause (b), the Seller authorises the Buyer and the Representative of the Buyer to make application to the Scheme Corporation in respect to the:
 - (1) information;
 - (2) documents to be inspected; and
 - (3) certificates,
 specified in Section 107 of the Strata Titles Act or Section 94 of the Community Titles Act.
- (b) Subject to the Scheme Corporation requiring payment, the Buyer must pay to the Scheme Corporation the fee prescribed by the Strata Regulations or the Community Regulations in connection with any application made in accordance with subclause (a).

10.6 Apportionment of Reserve Fund Contribution

- (a) This clause 10.6 applies if, on or before the Settlement Date, the Scheme Corporation has levied a Reserve Fund Contribution in respect to the Scheme Lot.
- (b) If an instalment of a Reserve Fund Contribution is payable in a Financial Year before the Financial Year in which the Settlement Date occurs, the Seller must pay that instalment.
- (c) If:
 - (1) the whole of the Reserve Fund Contribution is; or
 - (2) any instalments of the Reserve Fund Contribution are,
 payable in the Financial Year in which the Settlement Date occurs, then the whole of the Reserve Fund Contribution or those instalments of the Reserve Fund Contribution will be apportioned between the Seller and the Buyer as if the Reserve Fund Contribution is an Outgoing for the purposes of clauses 7.1 and 7.2 for that Financial Year.
- (d) If any instalment of the Reserve Fund Contribution is payable in a Financial Year after the Financial Year in which the Settlement Date occurs, the Buyer must pay that instalment.

- (e) If after the Settlement Date and in a Financial Year in which the Settlement Date occurs, a Reserve Fund Contribution is levied in respect of the Scheme Lot:
 - (1) there will be no adjustment of that Reserve Fund Contribution; and
 - (2) the Buyer must pay that Reserve Fund Contribution.

10.7 Property included

- (a) The Property includes:
 - (1) the share of the Seller in the common property comprised in the Scheme Plan; and
 - (2) the benefit of any lease, licence, right or special privilege in respect to the common property and which is granted to the proprietor of the Scheme Lot and which attaches to the Scheme Lot.
- (b) The Property is sold subject to every lease, licence, right or special privilege granted to a third party in respect of the common property.

10.8 Interests notified

Without affecting any other provision of this clause 10, the Seller sells the Land subject to the interests registered and notifications recorded on the Scheme Plan on the Contract Date.

11 Electricity/Underground Power

11.1 Land not connected to electricity supply

If before the Contract Date the Land has not been connected to the electricity supply the Buyer is responsible at the Buyer's expense for the connection of the Land to the electricity supply.

11.2 Electricity Scheme Agreement

- (a) This clause 11.2 applies if, on the Contract Date:
 - (1) the Property has been connected to the electricity supply under the Electricity Extension Scheme; and
 - (2) the Seller is a party to the Electricity Scheme Agreement in relation to the Property.
- (b) The Seller must, a reasonable time before the Settlement Date, arrange for Western Power to prepare and deliver to the Buyer the standard form Western Power documentation under which:
 - (1) the Seller is released from obligation under the Electricity Scheme Agreement; and
 - (2) the Buyer becomes liable for all obligations under the Electricity Scheme Agreement.
- (c) The documentation specified in subclause (b) must be executed as appropriate by the Seller and the Buyer not later than 3 Business Days before the Settlement Date.
- (d) The Seller must, before Settlement, pay to Western Power each:
 - (1) capital contribution; and
 - (2) electricity supply and other charge,
 payable to Western Power under the Electricity Scheme Agreement up to the Settlement Date and provide evidence to the Buyer at Settlement of compliance with this subclause (d).
- (e) The Seller, if entitled to a refund of part or all of the capital contributions paid under the Electricity Scheme Agreement waives absolutely all right to receive a refund of any capital contribution which may become payable by Western Power in the future.
- (f) If there is any refund of any capital contribution paid to Western Power under the Electricity Scheme Agreement that refund of capital contribution belongs absolutely to the Buyer.
- (g) The Seller must deliver the documentation specified in subclauses (b) and (c) to the Buyer on Settlement.
- (h) Immediately following Settlement the Buyer must lodge the documentation specified in subclauses (b) and (c) with Western Power.

11.3 Cost of Electricity Scheme Agreement documentation

The Seller must pay all legal and other costs incurred in preparing the documentation specified in clause 11.2.

11.4 Underground power

If before the Contract Date an Authority has determined that underground power will be installed or, underground power has been installed:

- (a) in the area within which the Land is situated; and
 - (b) the Land is required to be, or has been connected to the underground power supply,
- clauses 11.5 and 11.6 apply.

11.5 Underground power rate payable by Buyer

If:

- (a) clause 11.4 applies; and
- (b) the Authority has not before the Contract Date prescribed:
 - (1) an Underground Power Rate; and
 - (2) the manner in which the Underground Power Rate must be paid, the Buyer must pay the Underground Power Rate.

11.6 Underground power rate payable by Seller

If:

- (a) clause 11.4 applies; and
- (b) the Authority has before the Contract Date prescribed:
 - (1) an Underground Power Rate; and

- (2) the manner of payment of the Underground Power Rate, the Seller must:
- (3) before Settlement pay the Underground Power Rate to the Authority and provide proof of payment before or at Settlement; or
- (4) on Settlement:
 - (A) pay the Underground Power Rate to the Buyer on the basis that the Buyer must pay the Underground Power Rate to the Authority; or
 - (B) secure payment of the Underground Power Rate in a manner acceptable to the Buyer.

12 Sewer/Septic Tank

12.1 Property connected

- (a) If on the Contract Date:
 - (1) the Land is connected to a Water Corporation sewer; but
 - (2) any amount remains unpaid or becomes payable after Settlement for that connection (whether under a Water Corporation loan agreement or otherwise), the Seller must pay that amount:
 - (3) to the Water Corporation before Settlement and provide evidence of payment to the Buyer at Settlement; or
 - (4) to the Buyer at Settlement.
- (b) If the amount as specified in subclause (a) is paid to the Buyer at Settlement, the Buyer must pay that amount to the Water Corporation immediately following Settlement.
- (c) If the amount as specified in subclause (a) is paid to the Buyer Representative at Settlement:
 - (1) the Buyer Representative must pay that amount to the Water Corporation immediately following Settlement; and
 - (2) the Buyer irrevocably authorises and directs the Buyer Representative to pay the relevant amount to the Water Corporation in accordance with subclause (c)(1).

12.2 Land not connected

If on the Contract Date:

- (a) the Land is not connected to a Water Corporation sewer; and
- (b) whether or not the Water Corporation has issued a notice requiring the Land to be connected to a Water Corporation sewer, the Buyer is solely responsible for the connection of the Land to a Water Corporation sewer.

12.3 Decommissioning of Septic Tank

If on the Contract Date:

- (a) there is a septic tank on the Land; and
- (b) the septic tank has not been decommissioned, the Buyer is solely responsible for decommissioning the septic tank.

13 Subdivision

13.1 When this clause applies

- (a) Subject to subclause (b), this clause 13 applies only if the Land is not a Lot on the Contract Date.
- (b) If the Land is a Proposed Strata Lot or a Proposed Community Lot, only clauses 13.6, 13.7, 13.8 and 13.10 apply unless the Contract is also a Future Lot Contract, in which case clause 13.9 also applies.

13.2 Contract conditional

- (a) The Contract is conditional on:
 - (1) an application for the subdivision of the Subdivision Lot from the Original Land being lodged with the Planning Commission within 3 months after the Contract Date; and
 - (2) the Planning Commission granting approval for the subdivision of the Subdivision Lot from the Original Land within 6 months after the Contract Date, or any longer period as specified in:
 - (A) the Contract;
 - (B) a subsequent agreement in writing between the Parties.
- (b) Subject to clause 13.5, if the Planning Commission grants approval for subdivision subject to a condition, the Planning Commission will be treated as having granted approval for subdivision for the purposes of subclause (a)(2).
- (c) If a condition specified in subclause (a) is not satisfied, the Contract terminates:
 - (1) at midnight on the date when the relevant period in subclause (a) expires; and
 - (2) without the requirement for either Party to give to the other a Notice of Termination.

13.3 Further condition for subdivision

- (a) The Contract is also conditional on:
 - (1) the Planning Commission endorsing approval on a Subdivision Plan within 12 months after approval for subdivision by the Planning Commission; and
 - (2) the Subdivision Plan being In Order for Dealing within 3 months after the date of endorsement of approval by the Planning Commission in accordance with subclause (a)(1).

- (b) Each period specified in subclause (a) is, if applicable, extended as specified in:
 - (1) the Contract; or
 - (2) a subsequent agreement in writing between the Parties.
- (c) If the conditions specified in subclause (a) are not satisfied:
 - (1) either Party may at any time prior to the relevant condition being satisfied, elect by Notice to the other Party to terminate the Contract; and
 - (2) if Notice terminating the Contract has been given under subclause (c)(1), the Contract terminates on the date of service of the Notice.

13.4 Application and Subdivision Plan

- (a) The Seller must, if the Seller has not already done so, lodge an application with the Planning Commission for the subdivision of the Subdivision Lot from the Original Land, within 15 Business Days after the Contract Date.
- (b) Following the lodgment of the application in accordance with subclause (a), the Seller must use reasonable endeavours to:
 - (1) obtain the approval of the Planning Commission to the subdivision of the Subdivision Lot from the Original Land; and
 - (2) subject to the approval of the Planning Commission to the subdivision, arrange for preparation of a Subdivision Plan including the Subdivision Lot, and for the Subdivision Plan to be:
 - (A) lodged at Landgate; and
 - (B) endorsed as In Order for Dealing, as soon as practicable.
- (c) Following the determination of the application for subdivision by the Planning Commission, the Seller must, within 10 Business Days after:
 - (1) the approval of the Planning Commission for subdivision; or
 - (2) the refusal of the Planning Commission to grant approval for subdivision, give Notice to the Buyer of the determination of the Planning Commission and provide a copy of the determination of the Planning Commission to the Buyer.
- (d) The Seller must also on request by the Buyer:
 - (1) advise the Buyer of progress relating to the application to the Planning Commission for subdivision; and
 - (2) provide to the Buyer a copy of the determination of the Planning Commission in respect to an application for subdivision unless the Seller has already done so.

13.5 Unacceptable condition or requirement imposed by Planning Commission

- (a) If the Planning Commission grants approval for the subdivision of the Lot from the Original Land subject to a condition or requirement which either the Seller or the Buyer, acting reasonably:
 - (1) is unwilling to comply with; or
 - (2) considers to be prejudicial, the Party who:
 - (A) would be bound to comply with the condition or requirement; or
 - (B) is prejudiced by the condition or requirement, may within 15 Business Days of being notified of the condition or requirement, elect by Notice to the other Party to terminate the Contract.
- (b) If Notice terminating the Contract has been given under subclause (a), the Contract terminates on the date of service of the Notice.
- (c) The reference in subclause (a) to a condition or requirement of the Planning Commission includes a condition or requirement imposed by the Planning Commission that is subject to the satisfaction of a condition or requirement of an Authority other than the Planning Commission and:
 - (1) subclause (a) applies to the condition or requirement imposed by the other Authority;
 - (2) the Seller must use reasonable endeavours to obtain the approval of the other Authority; and
 - (3) if the other Authority imposes a condition or requirement, the Seller must within 10 Business Days of being notified of the condition or requirement:
 - (A) give Notice to the Buyer of the condition or requirement of the other Authority; and
 - (B) provide a copy of the condition or requirement to the Buyer.
- (d) The Seller must on request by the Buyer:
 - (1) advise the Buyer of progress relating to the satisfaction of a condition or requirement imposed by the Planning Commission or the other Authority; and
 - (2) provide to the Buyer a copy of the condition or requirement of the Planning Commission or the other Authority unless the Seller has already done so.

13.6 Proposed Strata Lot or Proposed Community Lot

If the Subdivision Lot is a Proposed Strata Lot or a Proposed Community Lot, the Seller must use best endeavours to arrange for the Subdivision Plan, being a Scheme Plan, to be registered at Landgate within the period specified or referred to in Section 163(3)(b) of the Strata Titles Act or Section 137(3)(b) of the Community Titles Act (as applicable).

13.7 Strata Lot – obligation to construct development

If the Contract includes an obligation for the Seller to construct a building or other improvement in connection with the sale of a Proposed Strata Lot or a Proposed Community Lot to the Buyer, the Seller must as soon as practicable:

- (a) undertake the construction of the building or improvement:
 - (1) in a proper and workmanlike manner; and
 - (2) in accordance with any plans or specifications which are attached to, or incorporated in, the Contract; and
- (b) if on the Contract Date construction has not commenced:
 - (1) commence construction after the Contract Date or on any date specified in the Contract; and
 - (2) following commencement of construction, cause:
 - (A) construction to proceed; and
 - (B) the construction of the building or other improvement to be completed.

13.8 Issue of title – Settlement Date

- (a) As soon as practicable after the Subdivision Plan is In Order for Dealing, the Seller must:
 - (1) apply for, and arrange for the issue of, a separate Certificate of Title for the Subdivision Lot; and
 - (2) notify the Buyer in writing, as soon as practicable after a separate Certificate of Title has been issued for the Subdivision Lot.
 - (b) Unless otherwise provided in the Contract, the Settlement Date is the date which is:
 - (1) 15 Business Days after the Seller notifies the Buyer that a separate Certificate of Title has issued for the Subdivision Lot; or
 - (2) if:
 - (A) the Buyer is aware that a separate Certificate of Title has been issued for the Lot; and
 - (B) the Buyer has notified the Seller that the Buyer is aware that a separate Certificate of Title has issued for the Lot,
- 15 Business Days after the Buyer has so notified the Seller.

13.9 Future Lot Contract

- (a) If the Contract is a Future Lot Contract:
 - (1) the Contract is conditional on the Seller being entitled to become the proprietor of the Subdivision Lot, Proposed Strata Lot or Proposed Community Lot within the period referred to in Section 13B of the Sale of Land Act; and
 - (2) the Seller must comply with the Sale of Land Act including:
 - (A) providing the required statutory warning (Section 13C of the Sale of Land Act);
 - (B) using reasonable endeavours to obtain approvals and lodge plans, and giving information to the Buyer (Section 13G of the Sale of Land Act); and
 - (C) notifying the Buyer within 10 Business Days of the condition in clause 13.9(a)(1) being satisfied (Section 13H of the Sale of Land Act).
- (b) If the Contract is terminated by the Buyer as a result of the condition in clause 13.9(a)(1) not being satisfied or under the Sale of Land Act, clause 13.10 applies.
- (c) This clause 13.9 and the Sale of Land Act have priority over any other provision of the Contract to the extent of any inconsistency.

13.10 Consequences of termination of Contract

If the Contract terminates:

- (a) under clause 13.2(c);
 - (b) under clause 13.3(c);
 - (c) under clause 13.5(b);
 - (d) as a result of the a Scheme Plan not being registered at Landgate in accordance with clause 13.6; or
 - (e) as a result of the condition in clause 13.9(a)(1) not being satisfied or under the Sale of Land Act,
- then:
- (f) the Deposit and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
 - (g) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
 - (h) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
 - (i) subject to subclauses (f) to (h), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

14 Terms contract

14.1 When this clause applies

This clause 14 applies if the Contract is a Terms Contract but clauses 14.6 to 14.10 only apply if the Buyer is given possession of the Property before Settlement.

14.2 Right to pay Purchase Price

Subject to the Buyer giving not less than 10 Business Days prior notice in writing to the Seller, the Buyer may pay the full balance of the Purchase Price at any time earlier than the time for payment specified in the Contract.

14.3 Right to pay instalment of Purchase Price

- (a) Subject to subclauses (b) and (c), the Buyer may at any time pay to the Seller part of the Purchase Price outstanding.

- (b) Unless a payment in accordance with subclause (a) is the whole of the balance of the Purchase Price outstanding, any payment made in accordance with subclause (a), must be in the sum of \$1,000, or a multiple of \$1,000.
- (c) Any payment made in accordance with subclause (a) will:
 - (1) be treated as payment of the last instalment or instalments of the Purchase Price due under the Contract; and
 - (2) not affect the obligation of the Buyer to pay the next instalment of the Purchase Price on the due date for payment.

14.4 Obligation to pay balance of Purchase Price

- (a) If the Buyer fails:
 - (1) to pay any instalment of the Purchase Price due under the Contract, on the due date for payment; and
 - (2) to pay the instalment specified in subclause (a)(1), within the time specified in a Notice served on the Buyer under subclause (b),
- the whole of the balance of the Purchase Price, and all other money due under the Contract, is immediately due and payable by the Buyer to the Seller.
- (b) If the Buyer has failed to pay an instalment of the Purchase Price on the due date the Seller may serve Notice on the Buyer. The Notice must:
 - (1) specify particulars of the instalment of the Purchase Price which has not been paid on the due date; and
 - (2) require the Buyer to pay the instalment specified in subclause (b)(1) within the time specified in the Notice being not less than 10 Business Days after the service of the Notice.

14.5 Right to pay mortgagee

If the Land is subject to a mortgage:

- (a) subject to subclause (b), the Buyer may pay any instalment of the Purchase Price due under the Contract, to the mortgagee under the mortgage, in reduction of the amount owed under the mortgage;
- (b) the Buyer must give Notice to the Seller of any payment made by the Buyer in accordance with subclause (a);
- (c) an amount paid by the Buyer under subclause (a) is treated as payment of the instalment of the Purchase Price next due to be paid by the Buyer under the Contract;
- (d) the Seller authorises the Buyer to:
 - (1) obtain information from the mortgagee as to the amount owed under the mortgage; and
 - (2) pay any amount to the mortgagee, in reduction of the amount owing under the mortgage; and
- (e) the Seller authorises the mortgagee to:
 - (1) provide any information requested by the Buyer; and
 - (2) accept any amount paid by the Buyer in reduction of the account owing under the mortgage.

14.6 Insurance

- (a) The Buyer must from and including the Possession Date take out and maintain with an insurer authorised to operate under the Insurance Act in the names of:
 - (1) the Buyer;
 - (2) the Seller; and
 - (3) any mortgagee of the Land,
- for their respective rights and interests, the insurance specified in subclause (b).
- (b) The insurance required to be taken out and maintained under subclause (a) is:
 - (1) insurance in respect to each building and other improvement on the Land for full replacement value against damage or destruction by fire, storm, tempest, earthquake and any other risk as reasonably determined by the Seller of which Notice is given to the Buyer; and
 - (2) public liability insurance in respect to:
 - (A) the death or injury of a natural person; or
 - (B) damage to or destruction of property of other persons, in respect of any one incident, in the sum of \$20 million or any greater amount reasonably required by the Seller.
 - (c) The Buyer must:
 - (1) provide to the Seller a copy of each policy of insurance taken out in accordance with subclauses (a) and (b);
 - (2) not alter or vary the insurance taken out under subclauses (a) and (b), without prior written notification to the Seller and in the event of the substitution or variation of any insurance taken out, comply with subclauses (a), (b) and (c)(1); and
 - (3) provide proof to the Seller that the insurance is current.
 - (d) If the Buyer fails to:
 - (1) take out insurance as required under subclauses (a) and (b); or
 - (2) provide proof to the Seller that the insurance is current,
- the Seller may, without notice to the Buyer, and without being obliged to do so, take out and maintain the insurance required in accordance with subclauses (a) and (b).
- (e) If the Seller takes out and maintains insurance in accordance with subclause (d) the Buyer must pay to the Seller on demand:
 - (1) all cost incurred by the Seller in taking out and maintaining the insurance; and

- (2) interest, on that amount at the Prescribed Rate, from the date each cost was incurred, up to and including the date on which each cost, together with interest, is repaid to the Seller.
- (f) The rights of the Seller under subclause (d) do not affect the rights of the Seller arising on default, and in particular, under clause 24.

14.7 Insurance – Scheme Lot

- (a) Clause 14.6 does not apply if:
 - (1) the Property is a Scheme Lot; and
 - (2) the Buyer provides proof to the Seller that as at the Possession Date, the Scheme Corporation has taken out and is maintaining insurance in respect to each risk and for the liability specified in clause 14.6(b).
- (b) If subclause (a) applies, the Buyer must:
 - (1) if required by the Seller, immediately provide to the Seller a copy of each policy of insurance taken out by the Scheme Corporation;
 - (2) if the insurance taken out by the Scheme Corporation is altered or varied, provide to the Seller details of the altered or varied insurance immediately the Buyer becomes aware of the alteration or variation, and in particular, provide details of any substitute insurance taken out by the Scheme Corporation; and
 - (3) provide proof to the Seller that the Scheme Corporation insurance is current.
- (c) The Seller may, by Notice to the Buyer, require that the Buyer take out insurance which:
 - (1) is additional to the insurance taken out by the Scheme Corporation;
 - (2) is specified in the Notice from the Seller to the Buyer; and
 - (3) provides additional insurance in respect to each risk and the liability specified in clause 14.6(b).
- (d) If the Seller gives notice to the Buyer under subclause (c):
 - (1) the Buyer must take out and maintain the additional insurance; and
 - (2) clause 14.6 applies to the additional insurance.

14.8 Application of insurance proceeds

- (a) If, arising from an incident, money becomes payable under the insurance taken out and maintained under this clause 14, subclauses (b) and (c) will apply.
- (b) The Buyer must:
 - (1) subject to any requirement of a mortgagee, if a mortgage is registered over the Land; and
 - (2) at the option of the Seller, apply insurance proceeds arising from damage or destruction of a building or improvement on the Land in:
 - (A) repair, reinstatement or replacement of that building or improvement; or
 - (B) as a payment towards, or in full payment of the Purchase Price then outstanding.
- (c) The Buyer must apply any proceeds of a claim arising from public risk insurance as required by:
 - (1) the insurer; or
 - (2) the Seller, acting reasonably.
- (d) If the Property is a Scheme Lot:
 - (1) insurance in respect to the Property is covered by insurance taken out by the Scheme Corporation; and
 - (2) arising from an incident money becomes payable under insurance taken out and maintained by the Scheme Corporation,
 the insurance proceeds must be applied as required by the Scheme Corporation or otherwise in accordance with the Strata Titles Act or the Community Titles Act (as applicable).

14.9 General obligation - Property and Land

From and including the Possession Date, the Buyer must:

- (a) not:
 - (1) demolish, alter or add to any building or improvement which forms part of the Property; or
 - (2) remove from or add any soil or other material to the Land, except with the prior written approval of the Seller, which approval must not be unreasonably withheld;
- (b) keep the Property in good repair, having regard to the condition of the Property at the Possession Date;
- (c) promptly pay all Outgoings;
- (d) comply with the requirements of all laws, and with:
 - (1) any lease or licence of the Land from the State; and
 - (2) in the case of a Scheme Lot – any lease, licence or agreement, and every by-law applicable to that Scheme Lot; and
- (e) if the Property is, or includes, a farm or cultivated Land:
 - (1) maintain the farm; and
 - (2) cultivate that Land,
 in accordance with the best practice usually followed in the district in which the Land is situated.

14.10 Default – Seller may remedy

If the Buyer is in default of an obligation under clause 14.9:

- (a) subject to subclause (b), the Seller may, without:
 - (1) being obliged to do so; and
 - (2) any obligation to give any further notice to the Buyer,
 remedy that default;

- (b) except in the case of an emergency when this subclause (b) will not apply, the Seller may not exercise a right under subclause (a) unless:

- (1) the Seller has served Notice on the Buyer:
 - (A) specifying the default of the Buyer; and
 - (B) requiring the Buyer to remedy the default within the reasonable time specified in the notice being not less than 10 Business Days after the service of the notice; and
- (2) the Buyer fails to remedy the default within the time specified in the Notice;
- (c) for the purpose of exercising the right of the Seller under subclause (a), the Seller may enter on the Land:
 - (1) at a reasonable time except in the case of an emergency when the Seller may enter at any time; and
 - (2) with or without contractors and other persons, to undertake any relevant or necessary work;
- (d) the Buyer must pay to the Seller on demand each cost incurred by the Seller to remedy a default of the Buyer together with interest on each cost at the Prescribed Rate:
 - (1) from and including the date on which payment is made by the Seller; and
 - (2) up to but excluding the date on which the relevant amount, together with interest, is paid to the Seller; and
- (e) the rights of the Seller under subclause (a):
 - (1) do not affect any other right of the Seller arising from the default of the Buyer; and
 - (2) in particular, do not affect the rights of the Seller under clause 24.

14.11 Delivery of Transfer and title

- (a) Subject to subclause (b) and clause 3.10, on payment by the Buyer of all money owing to the Seller under the Contract, including any interest, the Seller must deliver to the Buyer the documentation specified in clause 3.10(a):
 - (1) at the time specified in the Contract; or
 - (2) if no time is specified, on the day which is 15 Business Days after the Seller receives payment in full of the balance of the Purchase Price and other money due under the Contract.
- (b) The documentation specified in subclause (a) must be delivered to the Buyer at:
 - (1) the place and time agreed between the Seller and the Buyer; and
 - (2) if not agreed in accordance with subclause (b)(1), then:
 - (A) on the day which is a Business Day; and
 - (B) at the time between 9.00am and 5.00pm; and
 - (C) at the place within the Perth CBD,
 specified by Notice from the Buyer to the Seller given not less than 3 Business Days before the day specified in subclause (a).

15 Error or Misdescription

15.1 Meaning of error or misdescription

An error or misdescription of the Property means an error or misdescription in the Contract relating to:

- (a) a physical structure or physical feature of the Property;
- (b) a boundary of the Property; or
- (c) the area of the Land.

15.2 No termination or delay in Settlement

Subject to this clause 15, an error or misdescription of the Property in the Contract does not:

- (a) entitle the Buyer to terminate the Contract; or
- (b) result in any right for the Buyer to delay Settlement.

15.3 Claim for compensation by Buyer

If the Buyer claims:

- (a) there has been an error or misdescription of the Property in the Contract; and
 - (b) to be entitled to compensation,
- the Buyer must give to the Seller a Notice which specifies the basis of the claim and compensation required by the Buyer not later than 10 Business Days after the Possession Date.

15.4 Claim for compensation lost

If the Buyer fails to give a Notice in accordance with clause 15.3, any right of the Buyer to claim compensation arising from an error or misdescription of the Property in the Contract ceases to apply.

15.5 Determination of claim and compensation

If the Buyer serves a Notice under clause 15.3, unless otherwise agreed in writing between the Seller and the Buyer within 15 Business Days of service of the Notice, any issue between the Seller and the Buyer as to:

- (a) whether there is an error or misdescription of the Property in the Contract; or
 - (b) the amount of compensation payable by the Seller to the Buyer,
- must be determined by arbitration under clause 25.1.

16 No requisition on title for freehold land

If the Land is freehold land:

- (a) the Buyer is not entitled to give a requisition or objection to the Seller in respect to:
 - (1) the title of the Seller in respect to the Land; or
 - (2) the Property; and
- (b) the Seller is not obliged to provide a response to a requisition or objection by the Buyer in respect to:
 - (1) the title of the Seller in respect to the Land; and
 - (2) the Property.

17 Cost and duty

17.1 Legal and other cost

The Parties must pay their own legal and any other cost and expense in connection with:

- (a) the Contract; and
- (b) Settlement.

17.2 Duty

The Buyer must pay Duty on the Contract and the Transfer.

17.3 Registration fee

The Buyer must pay the registration fee on the Transfer.

17.4 Default cost

- (a) A Party in default under the Contract must pay to the other Party all cost and expense incurred by the other Party arising from the default.
- (b) Cost and expense specified in subclause (a) which has been determined before Settlement must be paid on Settlement.
- (c) If some or all of the cost and expense specified in subclause (a) is not paid on Settlement that cost and expense must be paid, after Settlement, on demand by the Party entitled to payment.
- (d) A Party may not refuse to complete Settlement because:
 - (1) a Party liable; or
 - (2) alleged to be liable,to pay cost and expense under this clause 17.4 does not pay that cost and expense at Settlement.

18 GST

18.1 Purchase Price does not include GST

Unless otherwise stated in the Contract, the Buyer is not required to pay to the Seller any amount in addition to the Purchase Price for GST.

18.2 Margin Scheme

Unless otherwise stated in the Contract, the Seller must not apply the Margin Scheme in respect to the sale of the Property.

18.3 GST to be paid on Purchase Price

If the Contract provides that GST must be paid in addition to the Purchase Price, at Settlement:

- (a) the Buyer must, in addition to the Purchase Price, pay the GST on the Purchase Price and any other consideration payable under the Contract; and
- (b) the Seller must provide a Tax Invoice to the Buyer.

18.4 GST on damages

- (a) If:
 - (1) a Successful Party becomes entitled to damages as a result of default under the Contract; and
 - (2) the Successful Party is liable to pay GST on the damages,the Payment Party must pay to the Successful Party the GST payable by the Successful Party on the damages at the same time as the Payment Party must pay the damages to the Successful Party.
- (b) If subclause (a) applies, the Successful Party must, on payment of the damages, provide a Tax Invoice to the Payment Party.
- (c) This clause 18.4 applies whether or not GST is payable on the Purchase Price.

19 Depreciation and Capital Works Deduction

19.1 Price of Depreciating Asset in Contract

If:

- (a) a Depreciating Asset forms part of the Property; and
 - (b) the price of that Depreciating Asset has been specified in the Contract,
- the price of the Depreciating Asset as specified in the Contract is the sale price of that Depreciating Asset for the purposes of the Income Tax Act.

19.2 Price of Depreciating Asset not specified in Contract

If:

- (a) a Depreciating Asset forms part of the Property; and
 - (b) the price of the Depreciating Asset has not been specified in the Contract,
- the sale price of that Depreciating Asset for the purposes of the Income Tax Act is the adjustable value of that Depreciating Asset for the purposes of the Income Tax Act as determined at Settlement.

19.3 Capital Works Deduction

- (a) If the Property includes capital works which give rise to a Capital Works Deduction the Seller must give the Buyer a written notification within 20 Business Days after Settlement specifying the information necessary to enable the Buyer to claim any remaining Capital Works Deduction.
- (b) The written notification under subclause (a) must comply with Section 262A (4A) of the Income Tax Act.

20 Registration of Transfer

20.1 Registration

No later than 3 Business Days after Settlement, the Buyer must lodge:

- (a) the Transfer; and
 - (b) every other document required to enable the Transfer to be registered at Landgate,
- and must then use best endeavours to ensure that the Transfer is registered as soon as possible.

20.2 Seller to cooperate

- (a) The Seller must immediately do everything reasonably requested by the Buyer to enable the Transfer to be accepted and registered at Landgate.
- (b) The Seller's obligation in subclause (a) survives Settlement.

20.3 Landgate requisition

- (a) If a requisition notice is issued by Landgate relating to the registration of:
 - (1) the Transfer; or
 - (2) any other document which is lodged for registration with the Transfer,the Seller and the Buyer must immediately do everything reasonably necessary to satisfy the requirements of the requisition notice.
- (b) If a requisition notice is issued by Landgate in respect to a document prepared by or on behalf of the Seller, the Seller must, not later than 3 Business Days before the time for payment prescribed by Landgate:
 - (1) pay to the Buyer the fee required by Landgate in respect to that requisition notice; or
 - (2) pay direct to Landgate the fee required by Landgate in respect to that requisition notice and provide a copy of the receipt for the payment issued by Landgate to the Buyer.
- (c) If the requisition notice issued by Landgate relates to a document prepared by or on behalf of the Buyer, the Buyer must pay to Landgate the fee required by Landgate in respect to the requisition notice issued in respect to that document by Landgate not later than 3 Business Days before the time for payment prescribed by Landgate.

21 Notice

21.1 Requirements for Notice

A notice to be given under the Contract must be:

- (a) in writing; and
- (b) in the English language; and
- (c) signed by the Party giving it or that Party's Representative.

21.2 Service generally

Subject to clauses 21.3 to 21.6, a Notice is treated as having been duly given to a Party if served:

- (a) on a Party which is not a company
 - (1) by delivering the Notice to the Party personally; or
 - (2) by posting the Notice to the Party at the Party's address specified in the Contract; and
- (b) on a Party which is a company
 - (1) by delivering the Notice to the company at its registered office;
 - (2) by posting the Notice to the company at its address specified in the Contract or at its registered office; or
 - (3) in accordance with Section 109X of the Corporations Act.

21.3 Service - Representative

If a Representative acts for a Party:

- (a) a Notice served on that Representative in accordance with this clause 21 is treated for all purposes as if the Notice had been served on that Party; and
- (b) a Notice given by that Representative in accordance with this clause 21 is treated for all purposes as if the Notice had been given by that Party.

21.4 Service by facsimile or email

- (a) If a facsimile number or email address is specified in the Contract or by a Party or a Representative as the facsimile number or email address of that Party or Representative:
 - (1) a Notice to the relevant Party or the Representative may be transmitted by facsimile to the specified facsimile number or sent by email to the specified email address;
 - (2) a Notice transmitted by facsimile is treated as served:
 - (A) on the day on which it is transmitted but if it is transmitted after 4.00pm or on a day which is not a Business Day it is treated as having been served on the next Business Day; and
 - (B) when the facsimile machine which transmits the Notice prints an acknowledgment that every page comprising that Notice has been transmitted to the specified facsimile number; and

- (3) a Notice sent by email is treated as served when:
 - (A) it is sent unless the sender receives a return email to the effect that the email was not transmitted successfully; and
 - (B) on the day on which it is sent but if the email is sent by the sender on a day which is not a Business Day or after 5.00 pm (addressee's time), it is treated as having been given on the next Business Day,
 and the Parties consent to a Notice being given by email.
- (b) If:
 - (1) a Party has a Representative; and
 - (2) the Representative or Party includes in correspondence to the other Party or the Representative of the other Party, details of the facsimile number or email address of that Party or Representative,
 then:
 - (3) the facsimile number or email address so specified is, subject to subclause (c), treated as the facsimile or email address for that Party or the Representative of that Party; and
 - (4) subclause (a) applies as if that facsimile number or email address is specified in the Contract, or has been specified by a Party or the Representative of that Party as the facsimile number or email address of that Party or Representative.
- (c) Subclause (b) does not apply if a Party or Representative specified in subclause (b) gives Notice to the other Party or the Representative of that other Party that the facsimile number or email address specified in the correspondence is not the facsimile number or email address of the Party or Representative.

21.5 Service when Notice posted

A Notice which has been posted is treated as served on the third Business Day after the date on which the Notice is posted.

21.6 Change of address

- (a) A Party may by Notice to each other Party change:
 - (1) the Representative of that Party;
 - (2) the address of that Party; or
 - (3) the address of that Party's Representative;
 - (4) a specified facsimile number; or
 - (5) a specified email address.
- (b) If a Notice is given under subclause (a) each subsequent Notice to the Party concerned must be served as applicable:
 - (1) on the new Representative of the Party, and
 - (2) at any new address, new specified facsimile number or new specified email address.

22 Time of Essence

Subject to clause 23, time is of the essence in relation to the Contract.

23 Default Notice

23.1 Requirement for Default Notice

Neither Party may terminate the Contract as a result of the other Party's default nor may the Seller forfeit any money paid by the Buyer or retake possession of the Property because of the default of the Buyer, unless:

- (a) the Non Default Party gives a Default Notice to the Default Party; and
- (b) the Default Party fails to remedy the default within the time required under the Default Notice.

23.2 No limit on right to issue further Notice

The giving of a Default Notice under clause 23.1 does not prevent the Non Default Party from giving a further Default Notice.

23.3 No Default Notice required for repudiation

Clause 23.1 does not apply if the Default Party repudiates the Contract.

24 Default

24.1 Buyer Default

If the Buyer:

- (a) is in default under the Contract and has failed to comply with a Default Notice; or
 - (b) repudiates the Contract,
- the Seller has each right in clause 24.2, in addition to any other right or remedy of the Seller.

24.2 Seller right on default or repudiation

If clause 24.1 applies, the Seller may:

- (a) affirm the Contract and sue the Buyer for damages for default;
- (b) affirm the Contract and sue the Buyer for:
 - (1) specific performance of the Contract; and
 - (2) damages for default in addition to or instead of specific performance;
- (c) subject to clause 23.1, retake possession of the Property;
- (d) subject to clause 23.1, terminate the Contract by Notice to the Buyer, but only if the Default Notice given under clause 23.1 includes a statement that if the default is not remedied within the time specified in the Default Notice, the Contract may be terminated; or
- (e) if the Buyer repudiates the Contract, terminate the Contract by Notice to the Buyer.

24.3 Further Seller right on termination

If the Seller terminates the Contract under clause 24.2(d) or 24.2(e), the Seller may, subject to the further provisions of this clause 24, elect to exercise any one or more of the following:

- (a) forfeit the Deposit;
- (b) sue the Buyer for damages for default;
- (c) resell the Property.

24.4 Deposit exceeds 10% of Purchase Price

If the Deposit exceeds 10% of the Purchase Price:

- (a) the Seller may under clause 24.3 forfeit only that part of the Deposit which does not exceed 10% of the Purchase Price; and
- (b) any money paid by the Buyer in excess of 10% of the Purchase Price, is to be treated as a payment of an Instalment for the purposes of this clause 24 only.

24.5 Resale

If the Seller resells the Property in accordance with clause 24.3(c), the Seller:

- (a) is not required to give notice of the resale to the Buyer; and
- (b) has the discretion, acting reasonably, to determine the manner of resale and the terms and conditions applicable to the resale.

24.6 Resale within 12 months

If:

- (a) settlement of the resale of the Property occurs within 12 months after the Seller terminates the Contract; and
 - (b) after taking into account the costs and expenses and the proceeds of the resale and the amount of the Deposit which has been forfeited, the amount held by the Seller:
- (c) is less than the Purchase Price, the Buyer must pay to the Seller, as liquidated damages, the difference between the amount held by the Seller and the Purchase Price; or
 - (d) exceeds the Purchase Price, the excess belongs to the Seller.

24.7 Terms Contract

If:

- (a) the Contract is a Terms Contract; and
 - (b) there is a surplus in accordance with clause 24.6(d); and
 - (c) the Buyer had possession of the Property for more than 12 months before the termination of the Contract,
- the Seller must pay the surplus to the Buyer, without interest.

24.8 Interest to Seller

Whether or not Settlement of the resale occurs within 12 months after the Seller terminates the Contract, any interest:

- (a) accrued on the Deposit; or
- (b) on any Instalment paid by the Buyer, belongs to the Seller.

24.9 Instalment

If the Seller:

- (a) terminates the Contract; and
 - (b) holds an Instalment,
- the Seller may hold the Instalment pending:
- (c) a resale of the Property; or
 - (d) determination of a claim for damages.

24.10 Sale within 12 months

If the Seller:

- (a) holds an Instalment in accordance with clause 24.9; and
- (b) resells the Property within 12 months of termination of the Contract, the Seller may apply the whole or part of the Instalment to liquidated damages determined in accordance with clause 24.6.

24.11 Payment after 12 months

Subject to clauses 24.10 and 24.12, the Seller must pay to the Buyer, without interest, any Instalment held by the Seller after 12 months following the termination of the Contract.

24.12 Finalisation of proceedings

If:

- (a) the Seller has instituted proceedings against the Buyer for damages, following termination of the Contract; and
 - (b) the action for damages has not been finalised within 12 months following the termination of the Contract,
- the Seller may hold any Instalment pending the final determination of the action for damages against the Buyer.

24.13 Payment after finalisation

After determination of the action for damages the Seller:

- (a) may apply the whole or part of the Instalment towards any judgment for damages and costs awarded by the court; but
- (b) must pay any surplus, after application of the Instalment towards the judgment and costs, to the Buyer, without interest.

24.14 Seller default

If the Seller:

- (a) is in default under the Contract and has failed to comply with a Default Notice; or
 - (b) repudiates the Contract,
- the Buyer has each right in clause 24.15, in addition to any other right and remedy of the Buyer.

24.15 Buyer right on default or repudiation

If clause 24.14 applies, the Buyer may:

- (a) affirm the Contract and sue the Seller for damages for default;
- (b) affirm the Contract and sue the Seller for:
 - (1) specific performance of the Contract; or
 - (2) damages for default in addition to or instead of specific performance;
- (c) subject to clause 23.1, terminate the Contract by Notice to the Seller, but only if the Default Notice given under clause 23.1 includes a statement that if the Default is not remedied within the time specified in the Default Notice, the Contract may be terminated; or
- (d) if the Seller repudiates the Contract, terminate the Contract by Notice to the Seller.

24.16 Further Buyer right on termination

If the Buyer terminates the Contract under clause 24.15(c) or 24.15(d):

- (a) the Deposit, and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
- (b) if the Deposit and any other money paid under the Contract by the Buyer has been paid to the Seller, the Seller must promptly repay the Deposit and, if applicable, that other money to the Buyer;
- (c) if the Deposit has been invested with a Deposit Financial Institution in accordance with clause 1.9, the Buyer is entitled to the interest earned on the Deposit;
- (d) if any other money paid by the Buyer under the Contract to the Deposit Holder in addition to the Deposit has been invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money invested; and
- (e) except for any money paid to the Deposit Holder by the Buyer under the Contract, the Seller must, on demand, pay to the Buyer interest on any money paid by the Buyer under the Contract at the Prescribed Rate, calculated:
 - (1) from and including the date of payment by the Buyer; and
 - (2) up to, but excluding the date on which the money is repaid to the Buyer.

24.17 Legal cost on termination

If the Termination Party terminates the Contract as a result of:

- (a) the default of; or
 - (b) the repudiation by,
- the Terminated Party, the Terminated Party must pay to the Termination Party all legal cost incurred by the Termination Party in respect to the termination of the Contract arising from that default or that repudiation.

24.18 Rule in *Bain v Fothergill* excluded

The rule of law known as the rule in *Bain v Fothergill*, which limits the damages recoverable from a Seller incapable of making good title, does not apply to the Contract.

25 General

25.1 Arbitration

If anything in relation to the Contract is to be determined by arbitration:

- (a) the arbitrator is to be a person jointly appointed by the Parties, or, if they cannot agree, by the President of the Real Estate Institute of Western Australia (Inc) at the request of either Party;
- (b) the Commercial Arbitration Act 1985 (WA) applies; and
- (c) a Party may be represented by a Legal Practitioner at any arbitration proceedings.

25.2 Contract takes priority

If there is a provision in the Contract which is inconsistent with a provision of this document, the provision in the Contract takes priority to the extent necessary to remove the inconsistency.

25.3 No merger

Insofar as any obligation under the Contract remains to be complied with after Settlement, that obligation and the relevant provisions relating to that obligation survive Settlement and continue to be enforceable despite Settlement having taken place.

26 Definitions and interpretation

26.1 Definitions

In this document, unless otherwise stated:

Access Device means:

- (a) each key and security device; and
- (b) written details of each code for any security system which enables access to the Property.

Act means an act of Parliament.

Assessment means an assessment issued by State Revenue of the amount of Duty payable on the Contract.

Authority means any governmental, statutory or other public body or authority including a local government.

Bank Cheque means a cheque drawn on itself by a Financial Institution.

Business Day means any day except a Saturday, Sunday or public holiday in Western Australia.

Buyer means each person so specified in the Contract.

Capital Works Deduction means a deduction allowed under Division 43 of the Income Tax Act.

Certificate of Duty means the State Revenue Certificate of payment of Duty generated through Revenue Online.

Certificate of Title means the Certificate of Title held by Landgate.

Clearance Certificate means a current certificate issued by the Commissioner of Taxation under section 14-220 of Schedule 1 to the Tax Administration Act that applies to the Seller (and if the Seller consists of more than one person, to each person who comprises the Seller) in respect of the sale of the Property.

Commissioner of State Revenue means the Commissioner of State Revenue specified in section 6 of the *Taxation Administration Act 2002* (WA).

Commissioner has the meaning given in the Tax Administration Act.

Contaminated Sites Act means the *Contaminated Sites Act 2003* (WA).

Contract means the contract between the Seller and the Buyer in which this document is incorporated and includes this document.

Contract Date means the date on which the last Party to sign the Contract signs it.

Corporations Act means the *Corporations Act 2001* (Commonwealth).

Crown Reservation means any of:

- (a) a reservation as defined in Section 3(1) of the Land Administration Act;
- (b) a covenant registered in accordance with Section 15 of the Land Administration Act;
- (c) a limitation, interest, encumbrance or notification recorded on a transfer of crown land in fee simple in accordance with the Land Administration Act; and
- (d) a reservation or clause contained in the Crown Grant of the Land.

Default Notice means a notice which:

- (a) specifies the default of a Party under the Contract;
- (b) requires the Party in default to remedy the default:
 - (1) within 10 Business Days after the date the notice is duly given or;
 - (2) within any longer period specified in the Notice; or
 - (3) if the Contract is a Terms Contract, within the time specified in Section 6(2) of the Sale of Land Act.

Default Party means a Party who the Non Default Party contends is in default under the Contract.

Deposit means money paid or payable under the Contract, as a deposit.

Deposit Claimant means a Party who issues a Deposit Holder Notice.

Deposit Financial Institution means a Financial Institution with which, if applicable:

- (a) the Seller Agent is authorised to invest trust money in accordance with the Real Estate Act;
- (b) the Seller Representative, being a Legal Practitioner, is authorised to invest trust money in accordance with the Legal Practitioners Act; and
- (c) the Seller Representative, being a Settlement Agent, is authorised to invest trust money in accordance with the Settlement Agents Act.

Deposit Holder means as applicable:

- (a) the Seller Agent or the Seller Representative to whom the Deposit is paid; and
- (b) if clause 1.3(b) or 1.4 applies the Legal Practitioner, Real Estate Agent or Settlement Agent who holds the Deposit.

Deposit Holder Notice means a Notice from the Deposit Claimant that:

- (a) specifies the Contract has been terminated;
- (b) states the basis on which it is contended that the Contract has been terminated;
- (c) states that the Deposit Holder is required to pay the Deposit to the Deposit Claimant; and
- (d) if the Deposit Respondent disputes that:
 - (1) the Contract has been terminated; or
 - (2) the Deposit should be paid to the Deposit Claimant,states that the Deposit Respondent must give Notice to the Deposit Claimant and the Deposit Holder within 5 Business Days of service of the Deposit Holder Notice as specified in clause 1.2.

Deposit Respondent means the party who is not the Deposit Claimant.

Depreciating Asset means an asset as defined in the Income Tax Act, except for an asset which attracts a Capital Works Deduction.

Depreciable Item means an item which is subject to depreciation under the Income Tax Act.

Dollars and \$ means Australian dollars.

Duplicate Certificate of Title means the duplicate of the Certificate of Title issued by Landgate.

Dutiable Value has the same meaning as dutiable value in section 9 of the Duties Act.

Duties Act means the *Duties Act 2008* (WA).

Duty means duty payable under the Duties Act.

Duty Endorsed means an endorsement that:

- (a) Duty has been paid on the Contract or the Transfer; or
- (b) if applicable, the Contract and the Transfer are exempt from Duty, and in particular has the same meaning as duty endorsed as defined in the Duties Act.

Electricity Extension Scheme means the scheme established by Western Power known as the Contributory Extension Scheme under which Western Power agreed to construct an extension to the electricity supply to supply electricity to the Property.

Electricity Scheme Agreement means:

- (a) the agreement entered into with Western Power under which electricity was provided to the Property under the Electricity Extension Scheme; and
- (b) includes, if applicable, the agreement between the Seller and Western Power under which the Seller assumed the obligations of a former owner of the Property under an agreement as specified in subclause (a).

Encumbrance means a mortgage, easement, restrictive covenant, Title Restriction, caveat, Memorial and Rate Encumbrance and includes any right and interest which a person has in relation to the Property.

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

Financial Year means each period commencing on 1 July in a year and ending on 30 June in the next succeeding year.

Future Lot Contract means a 'future lot contract' as defined in the Sale of Land Act.

Future Rate Outgoing means an Outgoing:

- (a) in respect to the Land; and
- (b) for which, as at Settlement an assessment has not been issued by an Authority in respect to the relevant Financial Year if the Outgoing is required to be adjusted at Settlement under the Contract.

GST means the goods and services tax payable under the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth).

In Order for Dealing means that the Subdivision Plan has been initialled by an Inspector:

- (a) as being in order for dealing; and
- (b) in particular, as in order to enable the issue of a separate Certificate of Title for the Lot.

Income Tax Act means:

- (a) the Income Tax Assessment Act 1936 (Commonwealth); and
- (b) the Income Tax Assessment Act 1997 (Commonwealth).

Inspector means an officer of Landgate authorised to sign a Subdivision Plan as being In Order for Dealing.

Instalment means any money paid by the Buyer under the Contract in excess of the Deposit.

Instituted means, in relation to court proceedings, that:

- (a) a Party has commenced proceedings in a court; and
- (b) the originating process which commences those proceedings, has been served on the other Party.

Insurance Act means the *Insurance Act 1973* (Commonwealth).

Interest Amount means the amount specified in the Interest Notice.

Interest Default Party means the party who the Interest Party claims is liable to pay interest or compensation under clause 4.1 to 4.5.

Interest Notice means a notice from the Interest Party to the Interest Default Party in which the Interest Party claims interest or compensation from the Interest Default Party under clause 4.6.

Interest Party means a party who claims to be entitled to interest or compensation under clause 4.1 to 4.5.

Land means the land which the Seller has agreed to sell to the Buyer as described in the Contract including all improvements and other fixed improvements on that land.

Land Administration Act means the *Land Administration Act 1997* (WA).

Landgate means the Western Australian Land Information Authority established under the *Land Information Authority Act 2006* (WA).

Land Tax means land tax payable under the Land Tax Act and includes, if applicable, Metropolitan Region Improvement Tax.

Land Tax Act means the *Land Tax Act 2002* (WA).

Lease means a lease or tenancy agreement in respect to the Property.

Legal Practitioner means an Australian legal practitioner or a law practice (as the context requires) as those terms are defined in the Legal Profession Act.

Legal Profession Act means the *Legal Profession Act 2008* (WA).

Loss includes a claim, judgment, order, financial loss, damages and costs.

Lot has the same meaning as the definition of lot in the Planning and Development Act.

Margin Scheme means the scheme described in Division 75 of the GST Act as the margin scheme.

Memorial means a Memorial lodged under an Act.

Metropolitan Region Improvement Tax means Metropolitan Region Improvement Tax as defined in the *Metropolitan Region Improvement Tax Act 1959* (WA).

Non Default Party means a Party who contends that another Party is in default under the Contract.

Notice means a notice as specified in clause 21.1.

Original Land means the land of which the Lot forms part.

Outgoing means:

- (a) all rates, taxes, charges (including fixed charges) and other similar expenses payable in relation to the Property (whether periodically or not); and
- (b) if the Land or any part is a Scheme Lot:
 - (1) each Scheme Contribution; and
 - (2) any money payable periodically under a lease, licence or other agreement referred to in clause 10.7,

but does not include a tax specified in the Income Tax Act, GST and Duty.

Party means, as the case requires, either the Seller or the Buyer, or both the Seller and the Buyer.

Payment Party means the Party who is liable to pay damages or other money to the Successful Party arising from default under the Contract.

Perth CBD means the area in or adjoining the City of Perth bounded by Riverside Drive, the Mitchell Freeway, Roe Street, Fitzgerald Street, Newcastle Street, Lord Street, Wellington Street and Plain Street, including both sides of each street or road.

Planning and Development Act means the *Planning and Development Act 2005* (WA).

Planning Commission means the Western Australian Planning Commission.

Possession Date means the date that is the earlier of:

- (a) the date Settlement occurs; and
- (b) the date on which the Buyer is given possession of the Property.

PPSA means the *Personal Property Security Act 2009* (Commonwealth).

PPSR PPSR means the register established and maintained pursuant to the PPSA and the PPS Regs.

PPS Regs means the *Personal Property Securities Regulations 2010* (Commonwealth).

Prescribed Rate means 9% per annum calculated daily.

Property means the Land and any Property Chattels.

Property Chattels means all items of property, except the Land and anything which forms part of the Land, which the Seller has agreed to sell to the Buyer under the Contract.

Property Condition Report means a report prepared by a Real Estate Agent or other person which records the condition of the premises the subject of a Lease:

- (a) as at the date of commencement of that Lease; or
- (b) at any time after the commencement of the Lease.

Purchase Price means the price payable for Property stipulated in the Contract.

Rate Encumbrance means a charge:

- (a) created over the Land by an Act; and
- (b) which arises from an Unpaid Rate Outgoing.

Real Estate Act means the *Real Estate and Business Agents Act 1978* (WA).

Real Estate Agent means a person who is:

- (a) defined in the Real Estate Act as a real estate agent; and
- (b) is licensed as a real estate agent under the Real Estate Act.

Remediated Site means the Land has been classified under the Contaminated Sites Act as 'remediated for restricted use' or 'contaminated - restricted use'.

Remediated Site Memorial means a Memorial lodged against the Land under the Contaminated Sites Act which classifies the Land under the Contaminated Sites Act as: 'remediated for restricted use' or 'contaminated - restricted use'.

Rent means rent and other money payable by a Tenant under a Lease.

Rent Period means each period under the Lease in respect to which the is required to pay Rent.

Representative means a person who is either a Legal Practitioner or a Settlement Agent and who has been appointed to act for a party in relation to the Contract or Settlement.

Residential Tenancies Act means the *Residential Tenancies Act 1987* (WA).

Restricted Use means the restriction on the use of the Land imposed under the Contaminated Sites Act.

Revenue Online also known as ROL means the system developed by State Revenue which enables Duty to be assessed and paid electronically.

Sale of Land Act means the Sale of Land Act 1970 (WA).

Seller means each person so specified in the Contract.

Seller Agent means a Real Estate Agent appointed to act on behalf of the Seller in respect to the sale of the Property.

Settlement means the completion of the sale and purchase of the Property in accordance with clause 3.

Settlement Agent means a person licensed as a settlement agent under the Settlement Agents Act.

Settlement Agents Act means the *Settlement Agents Act 1981* (WA).

Settlement Date means the date each Party must complete Settlement:

- (a) under clause 3.5; and
- (b) any other relevant provision of this document or of the Contract.

Specified Encumbrance means an Encumbrance specified in the Contract as subject to which the Property will be transferred.

State means the State of Western Australia.

State Administrative Tribunal means the Tribunal known as the State Administrative Tribunal established by the *State Administrative Tribunal Act 2004* (WA).

State Revenue means the office established by the Commissioner of State Revenue and known as the Office of State Revenue.

Subdivision Lot means the Land which is not a Lot, a Proposed Strata Lot or a Proposed Community Lot and which is the subject of the Contract.

Subdivision Land means the land which at the commencement of the Financial Year in which the Possession Date occurs:

(a) includes the Land; and

(b) from which, following subdivision, the Land is created as a separate Lot.

Subdivision Plan means a deposited plan which includes the Lot including if applicable, a Scheme Plan which includes the Proposed Strata Lot or the Proposed Community Lot (as applicable).

Successful Party means the party who is entitled to damages or other money from another party arising from default under the Contract.

Tax Administration Act means the *Taxation Administration Act 1953* (Commonwealth).

Tax Invoice includes any document or record treated by the Commissioner of Taxation for GST purposes:

(a) as a tax invoice; or

(b) as a document entitling a recipient to an input tax credit.

Tenant means a person who is a tenant under a Lease.

Tenant Bond means:

(a) money paid by the Tenant as a bond in respect to each obligation of the Tenant under a Lease; and

(b) any other security provided by the Tenant under a Lease.

Terminated Party means the Seller or the Buyer who is not the Termination Party.

Termination Party means the Seller or the Buyer who has terminated the Contract as a result of the default of the Terminated Party under the Contract or the repudiation by the Terminated Party of the Contract.

Terms Contract means a terms contract as defined in the Sale of Land Act.

Threshold Amount means the amount which is set out in section 14-215(1)(a) of Schedule 1 to the Tax Administration Act for the purposes of an excluded transaction under that section.

Title Notification means:

(a) any notification under Section 70A of the Transfer of Land Act; or

(b) any notification under Section 165 of the Planning and Development Act, and which applies in respect to the Land.

Title Restriction means a Crown Reservation and a Title Notification.

Transaction Summary means the summary generated through Revenue Online which specifies:

(a) the date the Contract was lodged on Revenue Online;

(b) the Dutiable Value;

(c) the date of assessment; and

(d) the Duty assessed.

Transfer means the instrument required to transfer the Land to the Buyer in a form acceptable for registration by Landgate, subject to signing by all Parties.

Transfer of Land Act means the *Transfer of Land Act 1893* (WA).

Underground Power Rate means the charge, rate or other payment required from the owner of the Property by an Authority in relation to the provision of underground power.

Unpaid Rate Outgoing means an Outgoing in respect to the Land which, as at Settlement, is:

(a) the subject of an assessment by an Authority; and

(b) unpaid,

and is required to be adjusted under the Contract in relation to the Financial Year in which Settlement takes place.

Variation Notice means a written notice issued by the Commissioner under section 14-235 of the Tax Administration Act to vary the amount otherwise payable by the Buyer under section 14-200 of the Tax Administration Act.

Water Corporation means the statutory body corporate established under the *Water Corporation Act 1995* (WA).

Western Power means the statutory body corporate known as Western Power established under the *Electricity Corporation Act 1994* (WA).

Withholding Amount means the amount which the Buyer is required by section 14-200 of Schedule 1 to the Tax Administration Act to pay to the Commissioner in respect of the purchase of the Property.

26.2 Definitions – Strata and Community Titles Schemes

In this document, unless otherwise stated:

Administrative Fund Contribution means the normal and regular contribution levied by the Scheme Corporation:

(a) if the Property is a Strata Lot or a Proposed Strata Lot – under Section 100(1) of the Strata Titles Act; or

(b) if the Property is a Community Lot or a Proposed Community Lot – under Section 85(1) of the Community Titles Act,

in respect to the registered proprietor in respect of the Scheme Lot in relation to:

(c) the control and management of the common property;

(d) the payment of any premiums of insurance; and

(e) the discharge of any other obligation of the Scheme Corporation.

Community Lot means the lot shown on a Community Scheme Plan the subject of the Contract.

Community Regulations means the Community Titles Regulations 2021 (WA).

Community Scheme Plan means a scheme plan (as defined in the Community Titles Act) if:

(a) in the case of a Community Lot, the community plan has been registered at Landgate; or

(b) in the case of a Proposed Community Lot, the community plan has not been registered at Landgate.

Community Titles Act means the Community Titles Act 2018 (WA).

Community Titles Scheme means the community titles scheme as defined in the Community Titles Act which applies in respect to the lots and common property which form part of the Community Scheme Plan.

Proposed Community Lot means a Lot shown on a Community Scheme Plan which on the Contract Date has not been registered at Landgate, the subject of the Contract

Proposed Strata Lot means a Lot shown on a Strata Scheme Plan which on the Contract Date has not been registered at Landgate, the subject of the Contract

Reserve Fund Contribution means a contribution levied by:

(a) if the Property is a Strata Lot or a Proposed Strata Lot – the Scheme Corporation under Section 100(2) of the Strata Titles Act; or

(a) if the Property is a Community Lot or a Proposed Community Lot – the Scheme Corporation under Section 85(1) of the Community Titles Act,

in respect to the registered proprietor of the Scheme Lot for a reserve fund for the purpose of accumulating funds to meet:

(c) contingent expenses other than those of a routine nature; and

(d) other major expenses of the Scheme Corporation likely to arise in the future.

Scheme Contribution means:

(a) an Administrative Fund Contribution; and

(b) a Reserve Fund Contribution.

Scheme Corporation means:

(a) if the Property is a Strata Lot or a Proposed Strata Lot – the strata company as defined in the Strata Titles Act which applies in respect to the Strata Lot or Proposed Strata Lot; or

(b) if the Property is a Community Lot or a Proposed Community Lot – the community corporation as defined in the Community Titles Act which applies in respect to the Community Lot or Proposed Community Lot.

Scheme Lot means a Strata Lot or a Community Lot (as applicable).

Scheme Plan means a Strata Scheme Plan or a Community Scheme Plan (as applicable).

Section 102(6)(b) Strata Notice means a notice concerning the purpose of and the amount of expenditure proposed for the Strata Titles Scheme as specified in Section 102(6)(b) of the Strata Titles Act.

Strata/Community Scheme means a Strata Titles Scheme or a Community Titles Scheme (as applicable).

Strata Lot means the lot shown on a Strata Scheme Plan the subject of the Contract.

Strata Regulations means the Strata Titles (General) Regulations 2019 (WA).

Strata Scheme Plan means a strata plan or survey-strata plan (as those terms are defined in the Strata Titles Act) if:

(a) in the case of a Strata Lot, the strata plan or survey-strata plan has been registered at Landgate; or

(b) in the case of a Proposed Strata Lot, the strata plan or survey-strata plan has not been registered at Landgate.

Strata Titles Act means the *Strata Titles Act 1985* (WA)

Strata Titles Scheme means the strata titles scheme as defined in the Strata Titles Act which applies in respect to the lots and common property which form part of the Strata Scheme Plan.

26.3 Strata Titles Act

Words which:

(a) are not defined in clause 26.1 or 26.2; but

(b) are defined in the Strata Titles Act, have the meaning given in the Strata Titles Act.

26.4 Community Titles Act

Words which:

(a) are not defined in clause 26.1 or 26.2; but

(b) are defined in the Community Titles Act, have the meaning given in the Community Titles Act.

26.5 GST Act

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the GST Act, have the meaning given in the GST Act.

26.6 PPSA

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the PPSA, have the meaning given in the PPSA.

26.7 Citation – 2022 General Conditions

This Joint Form of General Conditions for the Sale of Land 2022 Revision may be cited as the '2022 General Conditions'.

26.8 Interpretation

In this document and the Contract, unless the context otherwise requires:

- (a) the Seller and the Buyer must:
 - (1) comply with their respective obligations under the Contract; and
 - (2) not assign or transfer the Contract or any right under the Contract to a third party without the prior written consent of the other;
- (b) subject to subclause (a), each reference to the Seller and the Buyer includes as applicable:
 - (1) the successors of a company or corporation; and
 - (2) each legal personal representative of the Seller and the Buyer;
- (c) reference to an Authority includes a reference to:
 - (1) an officer of that Authority; and
 - (2) any other Authority and any officer of that other Authority which performs the same or a similar function to the Authority;
- (d) reference to a thing includes the whole and any part of that thing;
- (e) reference to the singular includes the plural and vice versa;
- (f) headings to clauses do not affect the interpretation of the Contract or this document;
- (g) if the Buyer or the Seller and any other person who is a Party consists of more than one person, then each of the two or more persons are liable both jointly and severally;
- (h) reference to a person includes reference to:
 - (1) a natural person;
 - (2) a company; and
 - (3) a body corporate constituted under any Act;
- (i) if something must be done by or on a day which is not a Business Day, the day by or on which that thing must be done is the next Business Day;
- (j) if a period of time is required to be calculated from or after a specific day, or from or after a day on which a specific event occurs, that day must not be included in the period;
- (k) if a period of time is expressed to expire on or continue until a specified date, that date is included in the period;
- (l) all warranties and representations continue to have effect after Settlement;
- (m) reference to being entitled to possession of the Property includes being entitled to Rent from the Property;
- (n) reference to a document being signed or to a Party being obliged to sign a document, is treated as requiring that the document be:
 - (1) executed by a company or body corporate; or
 - (2) signed by a natural person, in a manner which is:
 - (3) legally effective (including under the *Electronic Transactions Act 2011* (WA)); and
 - (4) if the document is required to be registered by Landgate, then in a manner acceptable for registration;
- (o) reference to an Act includes:
 - (1) any change to that Act or, if the Act is repealed, the Act replacing it; and
 - (2) all subsidiary legislation under that Act;
- (p) reference to a clause is a reference to a clause in this document; and
- (q) reference to a subclause is a reference to a subclause in the clause in which the reference occurs.

JOINT FORM

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05/22