

**CONTRACT FOR SALE OF A MARINA BERTH AT
KAWANA WATERS MARINA, BUDDINA, QUEENSLAND, AUSTRALIA**

Note: The legal structure of the Marina is complex. If in doubt consult your lawyer before signing. Marina Owners Ltd is only able to process sales where all of the particulars are fully and properly completed and Purchaser/s comply with their obligations stated in this contract. This contract makes reference to a number of documents which are relevant. Purchaser/s should inspect these documents at the Marina office (or obtain copies by email from manager@kwmarina.com.au) prior to entering into this contract.

THIS Contract is made this day of 2019

BETWEEN:

Phillip Barclay Young
of: ,
Unit 19 No. 1 The Strand
TOWNSVILLE QLD 4810
E: phil.byoung@bigpond.com
Mob: 0409 593 310

SOLICITORS FOR THE VENDOR:

North Coast Law
7 Margaret Street
PALMWOODS QLD 4555

AND:

Rex Roubin and Elizabeth Keane as Trustee
of: ,
20 Cooper Street
CURRIMUNDI QLD 4551
E: lizrex@optusnet.com.au
Mob: 0427 019 420

SOLICITORS FOR THE PURCHASER:

North Coast Law
7 Margaret Street
PALMWOODS QLD 4555

The contract contains:

Section 1 dealing with the sale and purchase of an interest in the Marina on-water improvements;

Section 2 dealing with the assignment of the sub-lease held by the vendor of the Berth being sold;

Section 3 dealing with the sale and purchase of an interest in freehold land; and

Section 4 which contains Clauses which are common to and are to be read and construed as forming part of Section 1, 2 and 3.

The parties agree that this Contract is subject to and conditional upon at all times the contemporaneous completion of the various events set out in the said Sections 1, 2, 3 and 4 which the parties will use their best endeavours to achieve.

SCHEDULE

BERTH NUMBER: F1

SUBLEASE NUMBER: 713109964

PURCHASE PRICE: \$79,500.00 (Seventy-nine thousand, five hundred dollars)

DEPOSIT: \$7,950.00 (Seven thousand, nine hundred and fifty dollars)

BALANCE PURCHASE PRICE: \$71,550.00 (Seventy-one thousand, five hundred and fifty dollars)

VENDOR'S AGENT: Kawana Waters Marina

DATE FOR COMPLETION:

(it is strongly recommended that this be not less than 28 days from the date of contract)

INTEREST IN FREEHOLD LAND: The whole of the Vendor's interest pertaining to the above Berth(s) and being 1/130 interest as tenant in common in each of Lots 785 & 786 of Plan B92926 and Lot 1 on RP 191629 County of Canning Parish of Mooloolah.

INTEREST IN ON-WATER IMPROVEMENTS: A factor calculated by dividing the length of the berth by 15549.

SUBJECT TO FINANCE (tick one) Yes []
No []

If yes is ticked above then the contract is conditional upon the purchaser obtaining finance in an amount and from a lender suitable to the purchaser within a period of 14 days from the date of this contract. If the purchaser does not intimate that finance is approved within that time then the contract is automatically at an end and the deposit will be returned in full.

SECTION 1 - ON-WATER IMPROVEMENTS

- 1.1** The Vendor warrants that he is the owner of the undivided share or interest referred to above in the on-water improvements ("the on-water improvements") consisting of but not limited to the walkways, access ways, and equipment provided for the convenience of berth owners or for safety purposes which are erected on or over the area of seabed described in the lease held by Marina Owners Ltd under a Head Lease ("the Head Lease") and known as Lot 2 on SP215934 ("the seabed area").
- 1.2** The Vendor agrees to sell and the Purchaser agrees to purchase the said share or interest as Tenant in Common with others in the on-water improvements.
- 1.3** The Vendor will at completion transfer set over and assign to the Purchaser the undivided share or interest in the on-water improvements described free of all and any encumbrances.
- 1.4** The Purchaser acknowledges that the share or interest in the on-water improvements referred to in this section and to be conveyed by the Vendor to the Purchaser will always be held in conjunction with the Sublease of the floating mooring berth referred to in Section 2, the membership in Marina Owners Ltd, and the interest in the freehold land referred to in Section 3, and the Purchaser further covenants with the Vendor that the Purchaser will not transfer assign mortgage alienate part with possession or dispose of the interest in the on-water improvements without concurrently transferring to the same person or persons the Sublease of the floating mooring berth and the interest in the freehold land.

SECTION 2 - SUBLEASE OF MARINA BERTH

- 2.1** The Vendor warrants and assures the Purchaser that the Vendor is the holder of a Sublease of the Berth referred to above which sub-lease which expires on 30 December 2038 ("the Sublease").
- 2.2** The Vendor warrants that the Sublease has been granted by a company limited by guarantee which company is known as Marina Owners Ltd ("MOL") and that to the Vendor's knowledge MOL holds a valid Head Lease of the seabed area which includes the marina complex and the berth.
- 2.3** The Purchaser requests the Vendor to cause MOL to consent to assignment to the Purchaser of the Sublease of the berth.
- 2.4** The Vendor will immediately on the entering into of this contract apply to MOL for consent to assign the Sublease.
- 2.5** The Purchaser will assist in any reasonable respect required in connection with that application.
- 2.6** Provided such consent has been granted by the date of completion the Vendor will assign to the Purchaser and the Purchaser will take all of the Vendor's interest in the Sublease.
- 2.7** The consent of the Head Lessor is required for the assignment of the Sublease.
- 2.8** The Purchaser will covenant and agree with MOL that the Sublease will always be held in conjunction with the interest in the on-water improvements and with the membership of MOL and the interest in the freehold land referred to in Section 3.
- 2.9** The interest of the Vendor will be assigned free of all and any encumbrances. In respect that the Sub lease is registered the assignment will take the form of a Form 1 transfer in the form prescribed from time to time.
- 2.10** The form of covenant will be in such terms as MOL shall reasonably prescribe.

- 2.11** The Purchaser acknowledges having inspected and approved a copy of the terms of the Sublease (which terms are set forth in a Standard Terms document for the marina and the Head Lease. Copies of these documents are available for inspection by prospective purchasers at the office of MOL.

SECTION 3 - INTEREST IN FREEHOLD LAND

- 3.1** The Vendor warrants that the Vendor is the registered proprietor of a share or interest as Tenant in common with others in all that freehold land described as above and containing an area of 805m², 728m² and 728m² respectively upon which are constructed or exist certain facilities and improvements namely an amenities block, office and administration section, commercial premises and a car park which comprise part of the complex known as Kawana Waters Marina.
- 3.2** The interest ("the interest") in the freehold land consists of a 1/130th share of an estate in fee simple for each berth sold by this contract.
- 3.3** The Vendor agrees to sell and the Purchaser to purchase the interest.
- 3.4** Upon payment of the consideration provided in the Schedule by the Purchaser to the Vendor and otherwise upon compliance with the various terms and conditions of all Sections of this Contract the Vendor will at the time of completion, transfer, set over and assign to the Purchaser the interest.
- 3.5** The Vendor will execute all documents and do all things necessary to convey the unencumbered estate in the interest to the Purchaser at the date of completion.
- 3.6** The Purchaser agrees to covenant with MOL that the interest will always be held in conjunction and run with membership in MOL, the share or interest in the on-water improvements and the Sublease.
- 3.7** The Purchaser will covenant with MOL that the Purchaser will not transfer, assign, mortgage, alienate, encumber, part with possession or otherwise dispose of the interest except to the same person or persons as hold the Sublease of the floating mooring berth and the share or interest in the on-water improvements.
- 3.8** The sale and purchase of the interest in the freehold land is effected subject to the existing leases ("the leases") of the commercial premises erected thereon. Such leases are conducted by MOL on behalf of the owners of the freehold land. The Purchaser acknowledges having inspected copies of the leases at the offices of MOL and having made such enquiries which it deems prudent in relation to the leases.
- 3.9** All rates and taxes (excluding Land Tax which is the responsibility of MOL and which is included as an outgoing of MOL) and other outgoings with respect to the interests hereby sold shall be paid and discharged by the Vendor up to and including the date of possession and thereafter by the Purchaser. Such rates, taxes and outgoings shall, if necessary, be apportioned in the case of those paid by the Vendor on the amount actually paid and in the case of those unpaid on the amounts payable disregarding (in the latter case) any discount for early payment.
- 3.10** The sale includes all improvements erected upon the land but does not include any chattels, plant machinery or furniture or any interest herein.
- 3.11** The Purchaser will deliver to the Vendor's solicitors not less than 14 days prior to the date for completion transfer documents in normal and usual form.

- 3.12 The Purchaser will covenant and agree with MOL that the interest in the freehold land will always be held in conjunction with the interest in the on-water improvements, the Sublease and with the membership of MOL.

SECTION 4 CONTRACTUAL PROVISIONS APPLICABLE TO SECTIONS 1, 2, 3 & 4

- 4.1 The Purchaser will pay the deposit immediately on the formation of this contract.
- 4.2 At the date for completion in exchange for the balance of the price the vendor will deliver to the purchaser executed transfers of the freehold interest and the Sublease free of encumbrances or with release documents and an allowance for registration of same (with any relevant issued title) and such other documents of transfer as may be required by the Purchaser or MOL to validly give effect to the terms of this contract, together with vacant possession of the berth unless otherwise arranged to the contrary with the Vendor and the Purchaser will be admitted to the membership of MOL.
- 4.3 The deposit specified in the Schedule hereto shall be paid on the execution hereof to the Agent for the Vendor as Stakeholder and shall be retained in Trust by such Agent pending completion. On completion as specified herein or termination through no fault and no non-performance of the Vendor such deposit shall be paid to the Vendor. If this Contract is terminated as a result of the default of the Vendor, then the deposit shall be refunded to the Purchaser in full.
- 4.4 Provided that the Vendor has acted reasonably and promptly at all time The Purchaser shall pay to the Vendor on demand interest at the rate of twelve per centum (12%) per annum on any money due hereunder and not received by the Vendor on the date for payment thereof. Such interest shall be calculated from the date when the money was actually due for payment and up to the date of receipt of same by the Vendor and such payment by the Purchaser and acceptance thereof by the Vendor shall be without prejudice to all or any other rights of the Vendor as set out hereunder.
- 4.5 Any mistake or error in the description or particulars of the interest in the on-water improvements or freehold land hereby sold or the floating marina berth shall not annul this Contract but (unless the parties remedies are limited excluded or otherwise dealt with elsewhere in this Contract) compensation or equivalent shall be given or taken by the Vendor or the Purchaser as the case may require.
- 4.6 The Vendor, at the Vendor's cost, will use his best endeavours to cause MOL to have prepared such documents as MOL considers necessary to effect the matters referred to in this contract. The Purchaser agrees to execute such documents and return them to the Solicitors for MOL within 7 days of receipt by the Purchaser thereof.
- 4.7 The Purchaser will within seven (7) days of the date of this contract provide to the Vendor two (2) written references from referees of the Purchaser's choice and in support of the Purchasers. The Vendor shall provide those references promptly to MOL or that Company's solicitors.
- 4.8 Should the instruments of title relating to the freehold land relate to other land or interests therein or due to statutory provision and/or practice, not be available for delivery to the Purchaser the Vendor shall not be obliged to deliver same to the Purchaser but shall enter into such reasonable covenants with the Purchaser as the Purchaser may require for production of such instruments of title as are in his possession or under his control. Should the instruments of title be partially cancelled the Vendor shall not be obliged to produce separate instruments of title on completion. In either such case the Purchaser shall bear the cost of any new instrument of title relating to the interest purchased in the land.
- 4.9 If the Purchaser fails to pay the deposit or any balance of purchase money or otherwise fails to comply promptly with any of the terms of this Contract then the Vendor in addition to any other rights which may be conferred upon it at law or equity may:-

- (a) affirm the contract and sue the Purchaser for damages for breach;
- (b) affirm the contract and sue the Purchaser for specific performance and damages in addition to or in lieu thereof; or
- (c) terminate the contract and -
 - (i) elect to declare the deposit forfeited and/or sue the Purchaser for damages for breach; or
 - (ii) elect to declare the deposit forfeited and/or resell the property hereby sold without any notice to the Purchaser by such manner as the Vendor shall deem fit and any expense arising there from shall be recoverable by the Vendor from the Purchaser as liquidated damages.

4.10 The rents and profits of the interest hereby sold and the berth shall belong to the Vendor up to and including the date of completion and possession and thereafter to the Purchaser and shall be dealt with as follows:-

- (a) all unpaid rents and profits in respect of any period terminating on or prior to the date of completion and possession shall not be apportioned between the parties on completion but shall be receivable by the Vendor who shall have the right to recover payment thereof;
- (b) all rents and profits paid in advance of the date of completion and possession shall be apportioned between the parties on completion;
- (c) all rents and profits payable in respect of any period current at the date of completion and possession which shall not be paid at the date of completion shall be apportioned when received by either party. Notwithstanding the provisions of this Clause any adjustment or adjustments due to the Purchaser shall be paid by the Vendor to MOL and it shall be held by the Company and applied to any amount of contributions for levies, maintenance, expenses and outgoings payable by the Purchaser as Sub-Lessee pursuant to the terms of the Sublease.

4.11 The interests in the interests hereby sold shall remain at the Vendor's risk until completion and the Vendor whilst continuing in possession will use the same with reasonable care.

4.12 No warranty is implied or given by the Vendor as to the present use and the Purchaser should make the Purchaser's own enquiries to ensure that same complies with the requirements of the local authority or any other authority or department having control over the Marina or its operation and further that it is suitable in all respects for the Purchaser.

4.13 Each party shall be responsible for their own professional costs and outlays. The Purchaser shall be responsible for the payment of all Stamp Duty and title transfer fees. The Vendor shall be responsible for the costs of MOL.

4.14 Completion shall be effected on the date for completion at such time and place as may be agreed upon by the parties. In the absence of agreement it shall be between the hours of 9.00 am and 5.00 pm at the office of the Solicitors for MOL.

4.15 Time shall in all cases and in every respect be deemed to be and at all times remain of the essence of this Contract.

4.16 Any notice in writing or document to be given by either party to the other pursuant to this Contract may be given by that party or his Solicitor and may be given to the other party of his Solicitor. Any such notice in writing or document may be delivered to or forwarded by prepaid post to the person intended to receive the same at his address above mentioned and a notice or document sent by post shall be deemed to have been delivered at the time when it would have been delivered in the ordinary course of post then prevailing. In addition any such notice in writing may be given or document delivered in the manner prescribed by Section 257 of the Property Law Act 1974. For the purpose of this Contract any notice or advice given by a parties solicitor shall be deemed to be given with the authority of the party.

- 4.17** In this Contract unless inconsistent with the context or subject matter If the Purchaser is a natural person then the term "Purchaser" shall mean and include his executors, administrator and permitted assigns and if the Purchaser is a Company, then the term "Purchaser" shall mean and include its successors and permitted assigns. Any reference in this Contract to the singular shall mean and include the plural wherever applicable and any reference to the masculine and or the feminine shall mean and include the opposite gender or genders as the case may require.
- 4.18** In the absence of any specific appointment the Vendor by executing this Contract confirms the appointment of the Vendor's Agent named in this Contract (jointly with any other Agent in conjunction with whom he has sold) as the Vendor's Agent to introduce a buyer and acknowledges an obligation to pay commission if this sale is completed at the rate agreed upon or in the absence of any Contract at the maximum rate prescribed by law.
- 4.19** The Purchaser acknowledges and confirms that he has not relied upon any representations or information supplied by the Vendor and that prior to reaching the decision to enter into this Contract that the Purchaser made all necessary investigations and enquiries to satisfy the Purchaser that the Purchaser was aware of all relevant terms, conditions, benefits and obligations relating to the berth.
- 4.20** The Purchaser further acknowledges and confirms that prior to entering into this Agreement the Purchaser was informed that parking for the Marina Complex is provided partly on the land described as Lot 786 on Plan B92926 while the balance is provided on the land described as Lot 2 on Plan 191629 and that the right to use the last described parcel of land is secured by a Registered Lease for period commencing on the 16 day of October 1989 and terminating on the 31 day of December 2088 in favour of MOL. The Purchaser has inspected and approved the terms of this lease.
- 4.21** Notwithstanding completion in terms hereof and notwithstanding registration of the transfer in favour of the Purchaser any general or special condition or any part or parties hereof to which effect is not given by such completion or registration and capable of taking effect after completion or registration shall remain in full force and effect.
- 4.22** The Purchaser will covenant and agree with MOL at all times observe the terms and conditions of the Management Agreement between the original owner of the berths and the freehold land etc and MOL dated 15 July 1983, and the Purchaser acknowledges and confirms that prior to entering into this Contract the Purchaser inspected a copy of such Management Agreement and at or prior to the time of completion agrees to appoint Marina Owners Limited the Purchasers Agent for the purpose of carrying out the terms and conditions of such Management Agreement. The Purchaser further covenants and agrees with the Vendor that the Purchaser will ratify and confirm all and every act and thing done by Marina Owners Limited pursuant to the terms of such Management Agreement and specifically that the Purchaser will during the term of such agreement ratify and confirm all negotiations carried out and documents signed by Marina Owners Limited in respect of Leases for any businesses now or hereafter during the term of the Management Agreement carried on or conducted in premises on the freehold land.
- 4.23** Where any consent is required to allow completion or the performance of any obligation under or by virtue of this Contract whether by any statute or otherwise, it shall be subject to such consent being given. If such consent is refused or not granted by the date for completion then either party may by notice in writing to the other terminate this Contract whereupon the deposit and other monies paid hereunder shall be refunded to the Purchaser by the Vendor or the Stakeholder as the case may be without any deduction whatsoever.
- 4.24** The purchaser has inspected the Constitution/Memorandum and Articles of Association of MOL and agrees to be bound by their terms.

4.25 Any special conditions annexed are deemed to be part of this contract and in the event of inconsistency between the terms of this contract and the special conditions then the special conditions will prevail.

4.26 In the event that the Vendor is registered for GST purposes and in light of the price including any GST applicable, then the Vendor may utilise the margin scheme to mitigate GST liability.

SIGNED SEALED AND DELIVERED by _____)
the Vendor/ in the presence of: _____)

_____ witness

ANIEKA DAVIS

SIGNED SEALED AND DELIVERED by _____)
the Purchaser/s in the presence of: _____)

COLIN JOHN LAMBERT

_____ witness



REX ROUBIN



ELIZABETH M KEANE

SPECIAL CONDITIONS:



Rex Roubin Superannuation Fund Abn Member Number: 13983644
38 150 771 392 R Roubin & E M Keane
Atf

Your Transfer Receipt on Thursday, 18 April 2019, at 1:14 PM:

| | |
|----------------|---------------------------|
| Receipt Number | 1840473488 |
| From: | |
| Account Number | ###644S24 |
| To: | |
| Account Name | Marina Owners Ltd. |
| Account Number | #####762 |
| BSB | 124-072 |
| Amount | \$7,950.00 |
| Transfer Date | 18/04/2019 |
| Reference | deposit berth F1 |

\$7950 PAID FROM HERITAGE SUPER FUND A/C
FOR DEPOSIT FOR PURCHASE OF KAWANA WATERS
MARINA BERTH # F1

DEED OF COVENANT made on the date undernoted

COPY

Between: **Philip Barclay Young**, of 19/1 The Strand, Townsville, QLD 4810 ("the transferor")

& **Rex Roubin and Elizabeth Maree Keane as trustees for Rex Roubin Superannuation Fund**, of 20 Cooper Street, Currimundi, QLD 4551 ("the transferee" jointly and severally if more than one)

& **Marina Owners Limited ACN 010 468 498**, of Orana Street, Buddina ("Marina Owners")

Whereas the transferor is to transfer to the transferee a certain share or interest in the on water improvements forming part of Kawana Waters Marina, Orana Street, Buddina ("the Marina") together with a 1/130 interest in the freehold land thereof and also a leasehold interest in berth number F1 therein ("the Berth") and it is a condition of the approval of that transfer by Marina Owners that the parties enter into this agreement, therefore it is agreed:-

1. The transferee irrevocably covenants to the transferor and to Marina Owners with effect from the date of transfer of the berth as follows:-
 - (a) that the transferee will at all times be bound by the terms and conditions of the Management Agreement entered into between Keith Lawrie Nominees Pty Ltd and Marina Owners dated 15th July 1983.
 - (b) that the transferee will not deal in any way in any of its interests at the marina without obtaining all if any necessary consents thereto and without obtaining from any transferee covenants and undertakings in like terms to those which the transferee has entered into in connection with the acquisition of same.
 - (c) that the transferee will not deal separately with any of the said interests but will deal with them as a whole only.
 - (d) that the transferee will be bound by the terms and conditions of the Sub-lease under which the berth is held (a copy of which the transferee has read and understood)
 - (e) that the transferee will be bound by the Constitution of Marina Owners as it exists from time to time.

2. The transferor with effect from the date of completion transfers to the transferee its interest in the on-water improvements owned by the transferor in conjunction with the ownership of the berth.

MEMORANDUM OF APPOINTMENT OF AGENT & ATTORNEY

I/We, **Rex Roubin and Elizabeth Maree Keane as trustees for Rex Roubin Superannuation Fund**, of 20 Cooper Street, Currimundi, QLD 4551, ("the Transferee") being the acquirer of an interest in (1) certain on water improvements at Kawana Waters Marina, Buddina ("the Marina"), and (2) an interest in freehold land described as Lots 785 & 786 on B92926 & Lot 1 on RP191629 and (3) a sub-lease of floating Berth F1 in the marina DO HEREBY APPOINT **Marina Owners Ltd** (Marina Owners) our agent and attorney for the purposes of:-

COPY

- 1 Negotiating various leases of the business premises conducted on the said freehold land and for all necessary purposes for the operation, conduct and management of Kawana Waters Marina and I/we do hereby specifically confirm that Marina Owners is duly authorised by us to execute all and any documents which may be necessary from time to time to record the terms and conditions of any lease or leases negotiated on behalf of the freehold land owners or of any other documents which Marina Owners shall consider appropriate in connection with the operation of Kawana Waters Marina.
- 2 Giving effect to the terms of the Management agreement between Keith Lawrie Nominees and Marina Owners dated 15th July 1983.

This appointment shall continue and be irrevocable during my/our ownership of all or any of the interests referred to above.

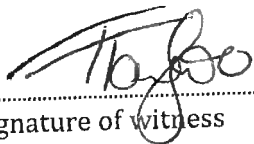
I/We agree and undertake that I/We will not dispose of any of the interests referred to above unless I/We shall dispose of all such interests and in that event I/We shall obtain from the transferee a covenant (and any other documents reasonably required by Marina Owners Ltd) in a form prescribed by Marina Owners from time to time.

And I/We do hereby appoint the said Marina Owners Ltd as my/our duly constituted attorney for the purposes of giving effect to the provisions contained herein and declare this appointment to be irrevocable during my/our period of ownership of any of the interests referred to above.

And I/We further apply to be admitted as member/s of the Marina owners Ltd and agree to be bound by the constitution of that company.

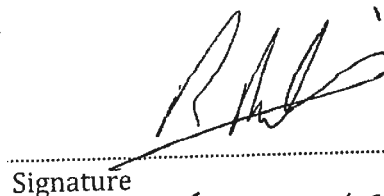
Appointment dated this 28th day of May 2019

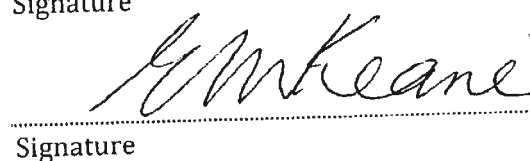
SIGNED BY THE TRANSFEEE/S Rex
Roubin and Elizabeth Maree Keane as
trustees in the presence of:)
)
)
)
)
)


Signature of witness

TRACEY RAE TAYLOR
Solicitor

Witness name & qualification
(JP/CDec/Solicitor)

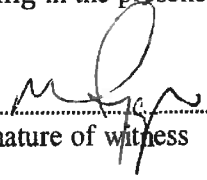

Signature

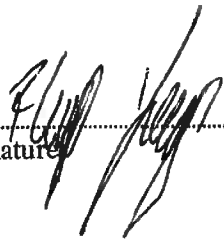

Signature

3

The parties agree that this deed may be executed by electronic means and further may be executed by the exchange of counterpart copies.

SIGNED SEALED & DELIVERED BY)
THE TRANSFEROR/S Philip Barclay)
 Young in the presence of:)
)
)
)
)
)


 Signature of witness 106957


 Signature

MICHAEL JAMES DUGGAN
 Witness name & qualification
 (JP/CDec/Solicitor) JUSTICE OF THE PEACE (QUAL)

15 MAY 2019
 Date

SIGNED SEALED & DELIVERED BY)
THE TRANSFEREE/S Rex Roubin and)
 Elizabeth Maree Keane as trustees in)
 the presence of:)
)
)
)
)


 Signature of witness

TRACEY RAE TAYLOR
 Solicitor


Witness name & qualification
 (JP/CDec/Solicitor)

28/05/2019
 Date


 Signature


 Signature

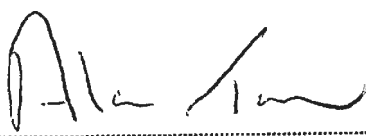
SIGNED SEALED & DELIVERED BY)
MARINA OWNERS by their duly)
 appointed Attorney, Alan Graham)
 Taylor, under Power of Attorney)
 dated 20 September 1996 in the)
 presence of:)
)


 Signature of witness

TRACEY RAE TAYLOR
 Solicitor

Witness name & qualification
 (JP/CDec/Solicitor)

03/06/2019
 Date


 Signature

Marina Owners Lto ACN. 010 468 498 by their duly appointed Attorney, Alan Graham Taylor, under Registered Power of Attorney No. 712044757 who certifies he has received no Notice of Revocation.



7 Margaret Street, Palmwoods Qld 4555
(PO Box 92, Palmwoods Qld 4555)
T: +617 5445 0544

Our Ref: AGT:TRT:191805
Your Ref:

7 June 2019

Mr R Roubin & Ms EM Keane
20 Cooper Street
CURRIMUNDI QLD 4551

Dear Rex & Elizabeth

RE: PURCHASE OF KAWANA WATERS MARINA BERTH F1

We are pleased to confirm that settlement was effected on 28/05/2019.

We now enclose the following documents for your safe keeping and retention:-

- Original Contract;
- Copy of Deed of Covenant;
- Copy of Memorandum of Appointment of Agent & Attorney.

Please note that you must retain the original Contract for at least 5 years.

The transfer documents have been sent for registration. We will forward registration confirmation statements to you in due course, which will confirm your ownership of the berth.

Yours faithfully

NORTH COAST LAW

Tracey Taylor

Email: tracey@nclaw.com.au

Liability limited by a scheme approved
under Professional Standards Legislation

**CONTRACT FOR SALE OF A MARINA BERTH AT
KAWANA WATERS MARINA, BUDDINA, QUEENSLAND, AUSTRALIA**

Note: The legal structure of the Marina is complex. If in doubt consult your lawyer before signing. Marina Owners Ltd is only able to process sales where all of the particulars are fully and properly completed and Purchaser/s comply with their obligations stated in this contract. This contract makes reference to a number of documents which are relevant. Purchaser/s should inspect these documents at the Marina office (or obtain copies by email from manager@kwmarina.com.au) prior to entering into this contract.

THIS Contract is made this 23rd day of **April** 2019

BETWEEN:

Philip Barclay Young
of,
Unit 19 No. 1 The Strand
TOWNSVILLE QLD 4810
E: phil.byoung@bigpond.com
Mob: 0409 593 310

SOLICITORS FOR THE VENDOR:

North Coast Law
7 Margaret Street
PALMWOODS QLD 4555

| | | |
|-----------------|--------------------|---------------------------------|
| Client No: | <u>1051438</u> | Duties Act 2001 |
| Transaction No: | <u>517-620-043</u> | |
| Duty Paid \$ | <u>1,207.50</u> | <input type="checkbox"/> Exempt |
| UTI \$ | | |
| Date: | <u>03/06/19</u> | Signed: <u>[Signature]</u> |

AND:

Rex Roubin and Elizabeth Maree Keane as trustees for Rex Roubin Superannuation Fund
of,
20 Cooper Street
CURRIMUNDI QLD 4551
E: lizrex@optusnet.com.au
Mob: 0427 019 420

SOLICITORS FOR THE PURCHASER:

North Coast Law
7 Margaret Street
PALMWOODS QLD 4555

The contract contains:

Section 1 dealing with the sale and purchase of an interest in the Marina on-water improvements;

Section 2 dealing with the assignment of the sub-lease held by the vendor of the Berth being sold;

Section 3 dealing with the sale and purchase of an interest in freehold land; and

Section 4 which contains Clauses which are common to and are to be read and construed as forming part of Section 1, 2 and 3.

The parties agree that this Contract is subject to and conditional upon at all times the contemporaneous completion of the various events set out in the said Sections 1, 2, 3 and 4 which the parties will use their best endeavours to achieve.

SCHEDULE

BERTH NUMBER: F1

SUBLEASE NUMBER: 713109964

PURCHASE PRICE: \$79,500.00 (Seventy-nine thousand, five hundred dollars)

DEPOSIT: \$7,950.00 (Seven thousand, nine hundred and fifty dollars)

BALANCE PURCHASE PRICE: \$71,550.00 (Seventy-one thousand, five hundred and fifty dollars)

VENDOR'S AGENT: Kawana Waters Marina

DATE FOR COMPLETION:

(it is strongly recommended that this be not less than 28 days from the date of contract)

INTEREST IN FREEHOLD LAND: The whole of the Vendor's interest pertaining to the above Berth(s) and being 1/130 interest as tenant in common in each of Lots 785 & 786 of Plan B92926 and Lot 1 on RP 191629 County of Canning Parish of Mooloolah.

INTEREST IN ON-WATER IMPROVEMENTS: A factor calculated by dividing the length of the berth by 15549.

SUBJECT TO FINANCE (tick one) Yes
No

If yes is ticked above then the contract is conditional upon the purchaser obtaining finance in an amount and from a lender suitable to the purchaser within a period of 14 days from the date of this contract. If the purchaser does not intimate that finance is approved within that time then the contract is automatically at an end and the deposit will be returned in full.

SECTION 1 - ON-WATER IMPROVEMENTS

- 1.1** The Vendor warrants that he is the owner of the undivided share or interest referred to above in the on-water improvements ("the on-water improvements") consisting of but not limited to the walkways, access ways, and equipment provided for the convenience of berth owners or for safety purposes which are erected on or over the area of seabed described in the lease held by Marina Owners Ltd under a Head Lease ("the Head Lease") and known as Lot 2 on SP215934 ("the seabed area").
- 1.2** The Vendor agrees to sell and the Purchaser agrees to purchase the said share or interest as Tenant in Common with others in the on-water improvements.
- 1.3** The Vendor will at completion transfer set over and assign to the Purchaser the undivided share or interest in the on-water improvements described free of all and any encumbrances.
- 1.4** The Purchaser acknowledges that the share or interest in the on-water improvements referred to in this section and to be conveyed by the Vendor to the Purchaser will always be held in conjunction with the Sublease of the floating mooring berth referred to in Section 2, the membership in Marina Owners Ltd, and the interest in the freehold land referred to in Section 3, and the Purchaser further covenants with the Vendor that the Purchaser will not transfer assign mortgage alienate part with possession or dispose of the interest in the on-water improvements without concurrently transferring to the same person or persons the Sublease of the floating mooring berth and the interest in the freehold land.

SECTION 2 - SUBLEASE OF MARINA BERTH

- 2.1** The Vendor warrants and assures the Purchaser that the Vendor is the holder of a Sublease of the Berth referred to above which sub-lease which expires on 30 December 2038 ("the Sublease").
- 2.2** The Vendor warrants that the Sublease has been granted by a company limited by guarantee which company is known as Marina Owners Ltd ("MOL") and that to the Vendor's knowledge MOL holds a valid Head Lease of the seabed area which includes the marina complex and the berth.
- 2.3** The Purchaser requests the Vendor to cause MOL to consent to assignment to the Purchaser of the Sublease of the berth.
- 2.4** The Vendor will immediately on the entering into of this contract apply to MOL for consent to assign the Sublease.
- 2.5** The Purchaser will assist in any reasonable respect required in connection with that application.
- 2.6** Provided such consent has been granted by the date of completion the Vendor will assign to the Purchaser and the Purchaser will take all of the Vendor's interest in the Sublease.
- 2.7** The consent of the Head Lessor is required for the assignment of the Sublease.
- 2.8** The Purchaser will covenant and agree with MOL that the Sublease will always be held in conjunction with the interest in the on-water improvements and with the membership of MOL and the interest in the freehold land referred to in Section 3.
- 2.9** The interest of the Vendor will be assigned free of all and any encumbrances. In respect that the Sub lease is registered the assignment will take the form of a Form 1 transfer in the form prescribed from time to time.
- 2.10** The form of covenant will be in such terms as MOL shall reasonably prescribe.

- 2.11 The Purchaser acknowledges having inspected and approved a copy of the terms of the Sublease (which terms are set forth in a Standard Terms document for the marina and the Head Lease. Copies of these documents are available for inspection by prospective purchasers at the office of MOL.

SECTION 3 - INTEREST IN FREEHOLD LAND

- 3.1 The Vendor warrants that the Vendor is the registered proprietor of a share or interest as Tenant in common with others in all that freehold land described as above and containing an area of 805m², 728m² and 728m² respectively upon which are constructed or exist certain facilities and improvements namely an amenities block, office and administration section, commercial premises and a car park which comprise part of the complex known as Kawana Waters Marina.
- 3.2 The interest ("the interest") in the freehold land consists of a 1/130th share of an estate in fee simple for each berth sold by this contract.
- 3.3 The Vendor agrees to sell and the Purchaser to purchase the interest.
- 3.4 Upon payment of the consideration provided in the Schedule by the Purchaser to the Vendor and otherwise upon compliance with the various terms and conditions of all Sections of this Contract the Vendor will at the time of completion, transfer, set over and assign to the Purchaser the interest.
- 3.5 The Vendor will execute all documents and do all things necessary to convey the unencumbered estate in the interest to the Purchaser at the date of completion.
- 3.6 The Purchaser agrees to covenant with MOL that the interest will always be held in conjunction and run with membership in MOL, the share or interest in the on-water improvements and the Sublease.
- 3.7 The Purchaser will covenant with MOL that the Purchaser will not transfer, assign, mortgage, alienate, encumber, part with possession or otherwise dispose of the interest except to the same person or persons as hold the Sublease of the floating mooring berth and the share or interest in the on-water improvements.
- 3.8 The sale and purchase of the interest in the freehold land is effected subject to the existing leases ("the leases") of the commercial premises erected thereon. Such leases are conducted by MOL on behalf of the owners of the freehold land. The Purchaser acknowledges having inspected copies of the leases at the offices of MOL and having made such enquiries which it deems prudent in relation to the leases.
- 3.9 All rates and taxes (excluding Land Tax which is the responsibility of MOL and which is included as an outgoing of MOL) and other outgoings with respect to the interests hereby sold shall be paid and discharged by the Vendor up to and including the date of possession and thereafter by the Purchaser. Such rates, taxes and outgoings shall, if necessary, be apportioned in the case of those paid by the Vendor on the amount actually paid and in the case of those unpaid on the amounts payable disregarding (in the latter case) any discount for early payment.
- 3.10 The sale includes all improvements erected upon the land but does not include any chattels, plant machinery or furniture or any interest herein.
- 3.11 The Purchaser will deliver to the Vendor's solicitors not less than 14 days prior to the date for completion transfer documents in normal and usual form.

- 3.12 The Purchaser will covenant and agree with MOL that the interest in the freehold land will always be held in conjunction with the interest in the on-water improvements, the Sublease and with the membership of MOL.

SECTION 4 CONTRACTUAL PROVISIONS APPLICABLE TO SECTIONS 1, 2, 3 & 4

- 4.1 The Purchaser will pay the deposit immediately on the formation of this contract.
- 4.2 At the date for completion in exchange for the balance of the price the vendor will deliver to the purchaser executed transfers of the freehold interest and the Sublease free of encumbrances or with release documents and an allowance for registration of same (with any relevant issued title) and such other documents of transfer as may be required by the Purchaser or MOL to validly give effect to the terms of this contract, together with vacant possession of the berth unless otherwise arranged to the contrary with the Vendor and the Purchaser will be admitted to the membership of MOL.
- 4.3 The deposit specified in the Schedule hereto shall be paid on the execution hereof to the Agent for the Vendor as Stakeholder and shall be retained in Trust by such Agent pending completion. On completion as specified herein or termination through no fault and no non-performance of the Vendor such deposit shall be paid to the Vendor. If this Contract is terminated as a result of the default of the Vendor, then the deposit shall be refunded to the Purchaser in full.
- 4.4 Provided that the Vendor has acted reasonably and promptly at all time The Purchaser shall pay to the Vendor on demand interest at the rate of twelve per centum (12%) per annum on any money due hereunder and not received by the Vendor on the date for payment thereof. Such interest shall be calculated from the date when the money was actually due for payment and up to the date of receipt of same by the Vendor and such payment by the Purchaser and acceptance thereof by the Vendor shall be without prejudice to all or any other rights of the Vendor as set out hereunder.
- 4.5 Any mistake or error in the description or particulars of the interest in the on-water improvements or freehold land hereby sold or the floating marina berth shall not annul this Contract but (unless the parties remedies are limited excluded or otherwise dealt with elsewhere in this Contract) compensation or equivalent shall be given or taken by the Vendor or the Purchaser as the case may require.
- 4.6 The Vendor, at the Vendor's cost, will use his best endeavours to cause MOL to have prepared such documents as MOL considers necessary to effect the matters referred to in this contract. The Purchaser agrees to execute such documents and return them to the Solicitors for MOL within 7 days of receipt by the Purchaser thereof.
- 4.7 The Purchaser will within seven (7) days of the date of this contract provide to the Vendor two (2) written references from referees of the Purchaser's choice and in support of the Purchasers. The Vendor shall provide those references promptly to MOL or that Company's solicitors.
- 4.8 Should the instruments of title relating to the freehold land relate to other land or interests therein or due to statutory provision and/or practice, not be available for delivery to the Purchaser the Vendor shall not be obliged to deliver same to the Purchaser but shall enter into such reasonable covenants with the Purchaser as the Purchaser may require for production of such instruments of title as are in his possession or under his control. Should the instruments of title be partially cancelled the Vendor shall not be obliged to produce separate instruments of title on completion. In either such case the Purchaser shall bear the cost of any new instrument of title relating to the interest purchased in the land.
- 4.9 If the Purchaser fails to pay the deposit or any balance of purchase money or otherwise fails to comply promptly with any of the terms of this Contract then the Vendor in addition to any other rights which may be conferred upon it at law or equity may:-

- (a) affirm the contract and sue the Purchaser for damages for breach;
- (b) affirm the contract and sue the Purchaser for specific performance and damages in addition to or in lieu thereof; or
- (c) terminate the contract and -
 - (i) elect to declare the deposit forfeited and/or sue the Purchaser for damages for breach; or
 - (ii) elect to declare the deposit forfeited and/or resell the property hereby sold without any notice to the Purchaser by such manner as the Vendor shall deem fit and any expense arising there from shall be recoverable by the Vendor from the Purchaser as liquidated damages.

4.10 The rents and profits of the interest hereby sold and the berth shall belong to the Vendor up to and including the date of completion and possession and thereafter to the Purchaser and shall be dealt with as follows:-

- (a) all unpaid rents and profits in respect of any period terminating on or prior to the date of completion and possession shall not be apportioned between the parties on completion but shall be receivable by the Vendor who shall have the right to recover payment thereof;
- (b) all rents and profits paid in advance of the date of completion and possession shall be apportioned between the parties on completion;
- (c) all rents and profits payable in respect of any period current at the date of completion and possession which shall not be paid at the date of completion shall be apportioned when received by either party. Notwithstanding the provisions of this Clause any adjustment or adjustments due to the Purchaser shall be paid by the Vendor to MOL and it shall be held by the Company and applied to any amount of contributions for levies, maintenance, expenses and outgoings payable by the Purchaser as Sub-Lessee pursuant to the terms of the Sublease.

4.11 The interests in the interests hereby sold shall remain at the Vendor's risk until completion and the Vendor whilst continuing in possession will use the same with reasonable care.

4.12 No warranty is implied or given by the Vendor as to the present use and the Purchaser should make the Purchaser's own enquiries to ensure that same complies with the requirements of the local authority or any other authority or department having control over the Marina or its operation and further that it is suitable in all respects for the Purchaser.

4.13 Each party shall be responsible for their own professional costs and outlays. The Purchaser shall be responsible for the payment of all Stamp Duty and title transfer fees. The Vendor shall be responsible for the costs of MOL.

4.14 Completion shall be effected on the date for completion at such time and place as may be agreed upon by the parties. In the absence of agreement it shall be between the hours of 9.00 am and 5.00 pm at the office of the Solicitors for MOL.

4.15 Time shall in all cases and in every respect be deemed to be and at all times remain of the essence of this Contract.

4.16 Any notice in writing or document to be given by either party to the other pursuant to this Contract may be given by that party or his Solicitor and may be given to the other party or his Solicitor. Any such notice in writing or document may be delivered to or forwarded by prepaid post to the person intended to receive the same at his address above mentioned and a notice or document sent by post shall be deemed to have been delivered at the time when it would have been delivered in the ordinary course of post then prevailing. In addition any such notice in writing may be given or document delivered in the manner prescribed by Section 257 of the Property Law Act 1974. For the purpose of this Contract any notice or advice given by a parties solicitor shall be deemed to be given with the authority of the party.

- 4.17 In this Contract unless inconsistent with the context or subject matter If the Purchaser is a natural person then the term "Purchaser" shall mean and include his executors, administrator and permitted assigns and if the Purchaser is a Company, then the term "Purchaser" shall mean and include its successors and permitted assigns. Any reference in this Contract to the singular shall mean and include the plural wherever applicable and any reference to the masculine and or the feminine shall mean and include the opposite gender or genders as the case may require.
- 4.18 In the absence of any specific appointment the Vendor by executing this Contract confirms the appointment of the Vendor's Agent named in this Contract (jointly with any other Agent in conjunction with whom he has sold) as the Vendor's Agent to introduce a buyer and acknowledges an obligation to pay commission if this sale is completed at the rate agreed upon or in the absence of any Contract at the maximum rate prescribed by law.
- 4.19 The Purchaser acknowledges and confirms that he has not relied upon any representations or information supplied by the Vendor and that prior to reaching the decision to enter into this Contract that the Purchaser made all necessary investigations and enquiries to satisfy the Purchaser that the Purchaser was aware of all relevant terms, conditions, benefits and obligations relating to the berth.
- 4.20 The Purchaser further acknowledges and confirms that prior to entering into this Agreement the Purchaser was informed that parking for the Marina Complex is provided partly on the land described as Lot 786 on Plan B92926 while the balance is provided on the land described as Lot 2 on Plan 191629 and that the right to use the last described parcel of land is secured by a Registered Lease for period commencing on the 16 day of October 1989 and terminating on the 31 day of December 2088 in favour of MOL. The Purchaser has inspected and approved the terms of this lease.
- 4.21 Notwithstanding completion in terms hereof and notwithstanding registration of the transfer in favour of the Purchaser any general or special condition or any part or parties hereof to which effect is not given by such completion or registration and capable of taking effect after completion or registration shall remain in full force and effect.
- 4.22 The Purchaser will covenant and agree with MOL at all times observe the terms and conditions of the Management Agreement between the original owner of the berths and the freehold land etc and MOL dated 15 July 1983, and the Purchaser acknowledges and confirms that prior to entering into this Contract the Purchaser inspected a copy of such Management Agreement and at or prior to the time of completion agrees to appoint Marina Owners Limited the Purchasers Agent for the purpose of carrying out the terms and conditions of such Management Agreement. The Purchaser further covenants and agrees with the Vendor that the Purchaser will ratify and confirm all and every act and thing done by Marina Owners Limited pursuant to the terms of such Management Agreement and specifically that the Purchaser will during the term of such agreement ratify and confirm all negotiations carried out and documents signed by Marina Owners Limited in respect of Leases for any businesses now or hereafter during the term of the Management Agreement carried on or conducted in premises on the freehold land.
- 4.23 Where any consent is required to allow completion or the performance of any obligation under or by virtue of this Contract whether by any statute or otherwise, it shall be subject to such consent being given. If such consent is refused or not granted by the date for completion then either party may by notice in writing to the other terminate this Contract whereupon the deposit and other monies paid hereunder shall be refunded to the Purchaser by the Vendor or the Stakeholder as the case may be without any deduction whatsoever.
- 4.24 The purchaser has inspected the Constitution/Memorandum and Articles of Association of MOL and agrees to be bound by their terms.

- 4.25 Any general conditions annexed or deemed to be part of this agreement in the event of inconsistency between the terms of this contract and any special conditions then the special conditions shall prevail.
- 4.26 In the event that the Vendor is registered for GST purposes and in light of the fact that Goods and GST applies then the Vendor may utilise the input tax credits to reduce the GST on any

SIGNED SEALED AND DELIVERED by
the Vendor in the presence of:



ANIKA DAVIS

SIGNED SEALED AND DELIVERED by
the Purchaser in the presence of:

COLIN JOHN LAMBERT





REX RUBIN



ELIZABETH M KEANE

SPECIAL CONDITIONS: