

Contract for Sale

Lot 29.. Quayhouse

Open Corporation Funds Management Limited ACN 154 921  
730 as trustee for the Open Corp Port Coogee Unit Trust

and

Buyer P+T Robins Holdings Pty Ltd ACN 615 617 108  
as bare trustee for P+T Robins Pty Ltd  
ACN 615 613 173 as trustee for Robins Super  
Fund

Ref PMW:

Doc ID 314649963/v5

Level 11, Westralia Plaza, 167 St Georges Terrace, Perth WA 6000 Australia  
PO Box 7222, Cloisters Square WA 6850 Australia

Telephone +61 8 9420 1500

Facsimile 1300 704 211 (Australia) +61 3 9981 3404 (International)  
hwlebsworth.com.au

<b>7.</b>	<b>Adjustment to the Purchase Price</b>	<b>28</b>
	7.1 Definitions	28
	7.2 Variations to Strata Plan	28
	7.3 Increase in Floor Area of Property	29
<b>8.</b>	<b>Delay in settlement</b>	<b>30</b>
	8.1 Buyer's delay	30
	8.2 Seller's delay	31
<b>9.</b>	<b>Default</b>	<b>31</b>
	9.1 Default notice	31
	9.2 Buyer's default	31
	9.3 Seller's default	32
	9.4 Default cost	32
<b>10.</b>	<b>Risk</b>	<b>33</b>
<b>11.</b>	<b>Encumbrances</b>	<b>33</b>
	11.1 Caveats	33
	11.2 Existing and future mortgages	33
<b>12.</b>	<b>Development</b>	<b>34</b>
	12.1 Development generally	34
	12.2 Variations to the development	35
	12.3 No variation	37
	12.4 Defects in the Building	37
	12.5 Warranty period	38
<b>13.</b>	<b>Strata company</b>	<b>39</b>
	13.1 By-laws	39
	13.2 Power of attorney and proxy	39
	13.3 Appointment of strata manager	41
<b>14.</b>	<b>Adjustment of outgoings</b>	<b>41</b>
	14.1 Rates and taxes	41
	14.2 Land tax adjustment	41
	14.3 Utility charges	43

14.4	Strata insurance premium	43
<b>15.</b>	<b>GST</b>	<b>43</b>
15.1	Inclusive of GST	43
15.2	Margin scheme	43
15.3	Valuation	44
15.4	Reimbursements	44
15.5	Tax invoices	44
15.6	Adjustments	44
15.7	No Merger	44
<b>16.</b>	<b>Assignment</b>	<b>44</b>
<b>17.</b>	<b>Display unit and marketing activities</b>	<b>45</b>
<b>18.</b>	<b>Restriction on sale</b>	<b>45</b>
18.1	Definition	45
18.2	Restrictions	46
<b>19.</b>	<b>Guarantee</b>	<b>46</b>
<b>20.</b>	<b>Trustee provisions</b>	<b>48</b>
<b>21.</b>	<b>Agent</b>	<b>49</b>
<b>22.</b>	<b>Home indemnity insurance</b>	<b>49</b>
<b>23.</b>	<b>Foreign Investment Review Board approval</b>	<b>49</b>
23.1	Application by Seller	49
23.2	Application by Buyer	49
<b>24.</b>	<b>Costs and transfer duty</b>	<b>51</b>
24.1	Legal and other cost	51
24.2	Transfer duty and registration fee	51
<b>25.</b>	<b>Privacy notice</b>	<b>51</b>
<b>26.</b>	<b>Acknowledgement</b>	<b>52</b>
26.1	Strata titles	52
26.2	Floor plans	52
26.3	Landscaping	52

26.4	Own enquiries	53
26.5	No compensation	53
26.6	No requisitions on title	53
<b>27.</b>	<b>Notice</b>	<b>53</b>
27.1	Requirements	53
27.2	How a Notice must be given	54
27.3	When Notices considered given and received	54
27.4	No email or other electronic communication of Notices	54
27.5	Time of delivery and receipt	54
27.6	General	54
<b>28.</b>	<b>Miscellaneous provisions</b>	<b>54</b>
28.1	Entire agreement	54
28.2	Waiver or variation	55
28.3	Proper law	55
28.4	Survival of covenants	55
28.5	No moratorium	55
28.6	Unenforceability	55
28.7	Non enforcement or rights	55
28.8	Further assurances	55
28.9	Counterparts	56
<b>29.</b>	<b>Special conditions</b>	<b>56</b>
<b>Annexure A</b>	<b>Floor Plans</b>	<b>63</b>
<b>Annexure B</b>	<b>Specifications</b>	<b>65</b>
<b>Annexure C</b>	<b>Disclosure Statement – Form 28</b>	<b>67</b>
<b>Attachment 1 - Form 29 - Buying and selling a strata titled lot</b>		<b>69</b>
<b>Attachment 2 - Proposed Strata Plan</b>		<b>71</b>
<b>Attachment 3 - Proposed Unit Entitlement</b>		<b>73</b>
<b>Attachment 4 - Management Statement</b>		<b>75</b>
<b>Attachment 5 - Strata Company Management Agreement</b>		<b>77</b>

<b>Attachment 6 - Strata Company's Budget or Proposed Budget</b>	<b>79</b>
<b>Annexure D Notice of Exemption - Home Indemnity Insurance</b>	<b>81</b>
<b>Annexure E Form 6</b>	<b>83</b>

## Contract of Sale - Quayhouse

Date 23 December 2016

---

### Parties

**Seller:** Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust of Suite 15, 622 Ferntree Gully Road, Wheelers Hill VIC 3150

**Buyer:**

Name and address

P+T Robins Holdings Pty Ltd ACN 615 617 108  
as Bare Trustee for P+T Robins Pty Ltd  
ACN 615 613 173 as Trustee for Robins Super Fund  
(Print full name and address of Buyer) 97 Strickland Street Bunbury 6230

ACN (if a company)

See Above

(Print ACN of company)

Tenancy

N/A

Joint Tenants/ Tenants in common (specify % of shares)

Is Buyer a 'Foreign Person'?

Yes, Clause 23 applies to this Contract.

or

No.

**Guarantor:**

Name and address

Peter John Robins and Tricia Anne Robins

97 Strickland Street Bunbury 6230

(Print full name and address of Guarantor)

---

Information Table

Item 1 Land	Lot 1011 on Deposited Plan 406047 being the land previously described as Lots 1017 and 1018 on Deposited Plan 72635 (being the whole of the land comprised in Certificates of Title Volume 2797 Folios 913 and 914)
Item 2 Property	Lot .2.9... as shown highlighted in colour on the attached Proposed Strata Plan (Attachment 2 in Annexure C)
Item 3 Purchase Price	\$ <u>42,500</u> (inclusive of GST). This includes the cost of the item/s ticked in Item 12
Item 4	<p>\$ <u>42,500</u> of which \$ <u>0</u> is payable upon the Buyer signing this Contract and the balance of \$ <u>42,500</u> must be payable within <u>7</u> days after the Contract Date.</p> <p>(Tick the box if applicable and insert details) <u>by 31/01/17 @ Per Seller's Honour</u> <u>(5/1/17)</u></p> <p><input type="checkbox"/> The Buyer requests and authorises the Deposit Holder to place the Deposit in an interest bearing account pursuant to clause 6.1(e) of this Contract:</p> <p>The Buyer's tax file number (TFN) is as follows:</p> <p>.....</p> <p>.....</p>
Item 5 Deposit Holder	HWL Ebsworth Lawyers of Level 11, Westralia Plaza, 167 St Georges Terrace, Perth WA 6000 or such other entity as the Seller may appoint as a substitute.
Item 6 Finance approval	<p>(Tick the appropriate box)</p> <p><input checked="" type="checkbox"/> Not applicable</p> <p>or</p> <p><input type="checkbox"/> Clause 5 will apply to this Contract.</p> <p>Lender: .....</p> <p>Loan Amount: .....</p> <p>Finance Approval Date: .....</p>

- 
- Item 7 Settlement Date
- (a) If the Certificate of Title has not been issued from Landgate, then the Settlement Date is the date being 14 days after the date of the written notice from the Seller or the Seller's Representative to the Buyer or the Buyer's Representative advising the Buyer that a separate certificate of title to the Property has been issued from Landgate.
  - (b) If the Certificate of Title has been issued from Landgate, then the Settlement Date is the later of:
    - (i) the date being 14 days from Finance Approval Date or 14 days from the date of waiver referred to in clause 5.1(d) if clause 5 applies; and
    - (ii) the date being 14 days from the Contract Date if clause 5 does not apply; and
    - (iii) ..... (Insert date)

---

Item 8 Seller's Representative

Name of representative: HWL Ebsworth Lawyers

Address: Level 11, Westralia Plaza, 167 St Georges Terrace, Perth WA 6000

Telephone: +61 8 9420 1500

Facsimile: 1300 704 211

Contact person: Paul Wilson / Lyne Moore

Email: [pwilson@hwle.com.au](mailto:pwilson@hwle.com.au), [lmoore@hwle.com.au](mailto:lmoore@hwle.com.au)

---

Item 9 Buyer's Representative

Name of representative: Suprem Settlements

Address: 41437 Yangebup Road, Coorburn central.

Telephone: 94172322

Facsimile: 94172323

Contact person: Denise Harwood

Email: denise@supremsettlements.com.au



Item 10 Latest Date The date which is 24 months from the date of execution of the contract for the first Lot to be sold.

Item 11 Registration Date Within 48 months after the Contract Date.

Item 12 Upgrade Packages

(Tick applicable box)

- One bedroom apartment: the Property includes the following instead of the items otherwise specified in the Specifications (Tick the applicable box or boxes). The cost of the item/s ticked is incorporated in the Purchase Price specified in Item 3.

Item	Cost
<input type="checkbox"/> Timber floor upgrade (excluding bathroom)	\$.....
<input type="checkbox"/> Kitchen - Bosch appliance upgrade:	\$.....
• Oven (HBG6767S1A)	
• Cooktop (P1E675N14E)	
• Rangehood (DHL555BAU)	
• Dishwasher (SMI88TSO1A)	
<input type="checkbox"/> Kitchen	\$.....
• Double under mount sink	
• Pendant lights	
• Designer sink mixer	

- Two bedroom apartment: the Property includes the following instead of the items otherwise specified in the Specifications (Tick the applicable box or boxes). The cost of the item/s ticked is incorporated in the Purchase Price specified in Item 3.

Item	Cost
<input type="checkbox"/> Timber floor upgrade (excluding bathrooms)	\$.....
<input type="checkbox"/> Air-conditioning to the second bedroom	\$.....
<input type="checkbox"/> Kitchen - Bosch appliance upgrade:	\$.....
• Oven (HBG6767S1A)	
• Cooktop (P1E675N14E)	
• Rangehood (DHL555BAU)	
• Dishwasher (SMI88TSO1A)	
<input type="checkbox"/> Kitchen	\$.....
• Double under mount sink	
• Pendant lights	
• Designer sink mixer	

---

**Item 13 Acknowledgement**    The Buyer acknowledges that:

- (a) it has entered into this Contract having received a full copy of this Contract of Sale for Strata Titled Lot - Residential including the Conditions of Sale and annexures to the Contract of Sale for Strata Titled Lot - Residential:
- (i) Conditions of Sale;
  - (ii) Proposed Floor Plans;
  - (iii) Schedule of specifications and finishes;
  - (iv) Disclosure Statement – Form 28 and its attachments including:

- 
- (A) Attachment 1 - Form 29;
  - (B) Attachment 2 - Proposed Strata Plan;
  - (C) Attachment 3 - Proposed Unit Entitlements;
  - (D) Attachment 4 - Proposed Management Statement;
  - (E) Attachment 5 - Proposed Strata Company Management Agreement;
  - (F) Attachment 6 - Proposed budget; and
  - (v) Notice of exemption - housing indemnity insurance; and
  - (vi) Form 6;
  - (b) it has read and understood the information contained in this Contract and the Disclosure Statement prior to entering into this Contract;
  - (c) subject to Item 13(d), the Conditions Precedent are for the benefit of the Seller and the Buyer may not rely on the Conditions Precedent as grounds for terminating this Contract; and
  - (d) if the Conditions Precedent have been satisfied or waived by the Seller, this Contract will become unconditional.

---

Item 14 Special Conditions      Special Conditions

*Nil*  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

## 1. Definitions and interpretation clauses

---

### 1.1 Definitions

In this Contract:

- Act** includes all acts and statutes (State or Federal) and all regulations by-laws requisitions or orders made under any Act from time to time by any Relevant Authority.
- Bank Guarantee** means an unconditional and irrevocable undertaking, with no expiry date or an expiry date no earlier than the Registration Date, by a bank authorised under the *Banking Act 1959* (Cth) to carry on a banking business (on terms which are reasonably acceptable to the Seller) to pay on demand the Deposit, and includes any replacement or addition to it.
- Builder** means the builder appointed by the Seller from time to time.
- Building** means the building to be constructed on the Land as shown generally on the Proposed Strata Plan.
- Building Licence** means a building licence granted by the Relevant Authority.
- Business Day** means a day that is not a Saturday, Sunday or public holiday in Western Australia.
- Business Hours** means the hours between 9:00 am and 5:00 pm on a Business Day.
- Buyer** means the party specified as the Buyer under the heading 'Parties' in the Information Table and if there is more than one party specified as Buyer then collectively they are known as the Buyer.
- Buyer's Representative** means the person specified in Item 9.
- By-laws** mean the by-laws of the Strata Company and are detailed in Schedule 1 and Schedule 2 of the Management Statement.

<b>Certificate of Title</b>	means the original Certificate of Title for the Property held by Landgate.
<b>Common Property</b>	means the common property shown on the Strata Plan.
<b>Conditions Precedent</b>	means the conditions precedent referred to in clause 3 of this Contract.
<b>Contract</b>	means this document including the Details, the Information Table and all its schedules and annexures.
<b>Contract Date</b>	means the date the Seller executes this Contract.
<b>CS Act</b>	means the <i>Contaminated Sites Act 2003 (WA)</i> .
<b>Default Notice</b>	means a notice which specifies the default of a party under this Contract and requires the party in default to remedy the default within ten (10) Business Days after the date the notice is duly given or within any longer period specified in the notice.
<b>Deposit</b>	means, subject to clauses 6.3(j) and 6.4(e), the amount specified in Item 4 and payable pursuant to clause 6.1.
<b>Deposit Holder</b>	means the person specified in Item 5.
<b>DER</b>	means the Department of Environment Regulation (being the department of the public service of the Government of the State of Western Australia through which the CS Act is administered).
<b>Details</b>	means the part of this Contract headed 'Details'.
<b>Development</b>	means the development of the Land by the Seller comprising the construction of the Building and all associated works and where the contract permits includes any stage or portion of the development.

- Disclosure Statement** means the Strata Titles Act Form 28 disclosure statement annexed to this Contract as Annexure C.
- Finance Application** means the application made by the Buyer or on the Buyer's behalf to the Lender to lend any monies payable under this Contract.
- Finance Approval** means a written approval by the Lender of the Finance Application or a written offer to lend or a written notification of an intention to offer to lend made by the Lender for the Loan Amount which is unconditional or subject to terms and conditions:
- (a) which are the Lender's usual terms and conditions for finance of a nature similar to that applied for by the Buyer;
  - (b) which the Buyer has accepted by written notice to the Lender, but a condition which is in the Buyer's sole control to satisfy will be treated as having been accepted for the purposes of this definition;
  - (c) which, if the condition is other than as referred to in sub clauses (a) and (b) above includes:
    - (i) an acceptable valuation of any property;
    - (ii) attaining a particular loan to value ratio;
    - (iii) the sale of another property; or
    - (iv) the obtaining of mortgage insurance.
- Finance Approval Date** means the time and date specified in Item 6 or if there is no date specified, then the date being 30 days after the Contract Date.
- Floor Plans** means the floor plan for the Property in Annexure A as amended from time to time.
- Foreign Acquisitions and Takeovers Act** means the *Foreign Acquisitions and Takeovers Act 1975 (Cth)*.
- Foreign Person** means a 'foreign person' as defined under sections 21A(1) or 4(6) of the Foreign Acquisitions and Takeovers Act.

<b>GST Act</b>	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Guarantor</b>	means the person (if any) specified as the Guarantor in the Information Table.
<b>Information Table</b>	means the part of this Contract headed 'Information Table'.
<b>Internal Floor Area</b>	means the enclosed main living or working areas of the Property excluding balconies, car parking bays, storage areas, courtyards, verandas and gardens.
<b>Item</b>	means an item in the Information Table.
<b>Land</b>	means the land described in Item 1.
<b>Land Tax</b>	means the land tax payable under the <i>Land Tax Act 2001 (WA)</i> and includes, where applicable, metropolitan region improvement tax as defined in the <i>Metropolitan Region Improvement Tax Act 1959 (WA)</i> .
<b>Landgate</b>	means the Western Australian Land Information Authority, trading as Landgate.
<b>Latest Date</b>	means the date specified in Item 10 as may be extended pursuant to clause 3.2(c).
<b>Lender</b>	means the lender specified in Item 6 or if the Buyer makes a finance application to, or if no lender is nominated in the Information table then, any bank, building society, credit union or other institution which makes loans and in each case is carrying on business in Western Australia.
<b>Loan Amount</b>	means the amount referred to in Item 6 or any lesser amount referred to in the Finance Application. If no amount is specified in Item 6, then the amount will be an amount equivalent to the Purchase Price.
<b>Lot</b>	means a lot on the Strata Plan.

- Major Defect** means a fault or defect to the Property of such a nature that the Buyer is substantially unable to occupy the Property if such fault or defect is not repaired or rectified prior to Settlement.
- Management Statement** means the management statement attached to the Disclosure Statement or any replacement management statement issued by the Seller to the Buyer and registered by the Seller prior to Settlement.
- Mortgage** means the mortgage or mortgages of the Land registered at Landgate on the Contract Date.
- Notice of Exemption** means the notice in Annexure D issued by the Developer to the Buyer with respect to the home indemnity insurance for this Development.
- Outgoings** means:
- (a) all rates (including special area rates), taxes, charges (including fixed charges), levies and other similar expenses payable in relation to the Property (whether periodically or not) and whether separately rated at the time of Settlement or not;
  - (b) all strata levies payable for the Property;
  - (c) the amount of any insurance premium paid by the Seller on behalf of the Strata Company in respect of the Property, being the same proportion of the total premium paid as the Unit Entitlement of the Property bears to the aggregate Unit Entitlement of all the Lots; and
  - (d) Land Tax payable (on a single ownership basis) for the Property or the land of which the Property forms part.
- Personal Information** means all personal information (as that word is defined in the Privacy Act) relating to the Buyer including all personal information set out in this Contract and otherwise collected by the Seller whether prior to or after the Contract Date.
- Planning and Development Act** means *the Planning and Development Act 2005 (WA)*;



<b>Plans</b>	mean the construction plans for the Building which are not to be made available to the Buyer in any circumstance.
<b>Practical Completion</b>	means the completion of the Development certified by the Seller's Architect.
<b>Prescribed Rate</b>	means 12.5% per annum calculated on a daily basis.
<b>Privacy Act</b>	means the <i>Privacy Act 1988</i> (Cth) and any regulations, ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instrument made or issued under that Act as amended from time to time including the Australian Privacy Principles.
<b>Project Manager</b>	means the project manager for the Development appointed by the Seller from time to time.
<b>Property</b>	means the property mentioned in Item 2.
<b>Proposed Strata Plan</b>	means proposed Strata Plan 71830 being the proposed strata plan for the Development in the form of the plan annexed to this Contract as Attachment 2 in Annexure C being in the form in which it is intended to be registered at Landgate.
<b>Purchase Price</b>	means the purchase price specified in Item 3 and as varied pursuant to clause 7.
<b>Registration Date</b>	means the date specified in Item 11.
<b>Relevant Authority</b>	means any body or corporation or any municipal, government, statutory or non-statutory authority or body having authority or jurisdiction over the Development, Property or to whose systems the Property is connected at any time.
<b>Sale of Land Act</b>	means the <i>Sale of Land Act 1970</i> (WA).
<b>Seller</b>	means the party specified as the Seller under the heading 'Parties' in the Information Table.

<b>Seller's Architect</b>	means the architect for the Development appointed by the Seller from time to time.
<b>Seller's Representative</b>	means the person specified in Item 8.
<b>Settlement</b>	means the completion of the sale and purchase of the Property in accordance with clause 6.5.
<b>Settlement Date</b>	means the date specified in Item 7.
<b>Special Conditions</b>	means the special conditions (if any) specified in Item 14.
<b>Specifications</b>	means, subject to Item 12, the specifications and finishes for the Property in Annexure B as amended from time to time.
<b>Strata Company</b>	means the body corporate created upon registration of the Strata Plan.
<b>Strata Company Management Agreement</b>	means the proposed Strata Company Management Agreement attached to the Disclosure Statement as Attachment 5 to be entered into between the Strata Company and the strata manager appointed pursuant to clause 13.3.
<b>Strata Plan</b>	means Strata Plan 71830, being the strata plan for the Development registered at Landgate and being in the form of the Proposed Strata Plan as amended from time to time.
<b>Strata Titles Act</b>	means the <i>Strata Titles Act 1985 (WA)</i> .
<b>Transfer</b>	means the instrument required to transfer the Property to the Buyer in a form acceptable for registration by Landgate, subject to signing by all parties.
<b>Transfer of Land Act</b>	means the <i>Transfer of Land Act 1893 (WA)</i> .

<b>Treasurer</b>	means the Treasurer of the Commonwealth of Australia under the Foreign Acquisitions and Takeovers Act.
<b>Unit Entitlement</b>	means the quantum of the undivided share in the Common Property to which the proprietor of a Lot is entitled which will be substantially in accordance with the schedule of proposed unit entitlements annexed to this Contract as Attachment 3 in Annexure C.

## 1.2 GST Act definitions

Undefined terms used in this Contract which are defined in the GST Act have the same meaning in this Contract as they have in the GST Act.

## 1.3 Interpretation

In this Contract, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, information table, schedule or annexure is a reference to a clause or paragraph or the information table in, or a schedule or an annexure to, this Contract and a reference to this Contract includes the information table and any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Perth, Western Australia time;
- (g) a reference to a party is to a party to this Contract, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re enactments or replacements of any of them;

- (j) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (k) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;
- (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (n) the covenants on the part of the Seller bind only the registered proprietor from time to time of the Land; and
- (o) the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expressions in this agreement do not limit what else is included and must be construed as if they are followed by the words 'without limitation', unless there is express wording to the contrary.

## 2. Sale of property

---

The Seller agrees to sell and the Buyer agrees to purchase the Property:

- (a) for the Purchase Price;
- (b) free from all encumbrances except for:
  - (i) the encumbrances referred to in clause 4; and
  - (ii) any encumbrances required by any Relevant Authority and clause 11; and
- (c) subject to the satisfaction of the Conditions Precedent and on the terms and conditions in this Contract.

### 3. Conditions precedent

---

#### 3.1 Pre-sale

- (a) The Seller may terminate this Contract by giving a written notice to the Buyer on or before the Latest Date if the Seller in the Seller's absolute discretion considers that:
- (i) the Seller is unable to secure sufficient funding to construct and complete the Development on terms acceptable to the Seller;
  - (ii) there are insufficient sales of the proposed Lots during the period up to the Latest Date; or
  - (iii) there is insufficient projection for the sale of the proposed Lots.
- (b) If the Seller gives the Buyer a written notice under clause 3.1(a), the Seller must repay the Deposit to the Buyer together with all accrued interest and all other money (if any) paid by the Buyer under this Contract without deduction except for any duty and taxes payable on interest accrued and, upon repayment, this Contract will be at an end and cease to have effect and neither party will have any claim against the other.

#### 3.2 Building approval

- (a) The Seller may terminate this Contract by giving a written notice to the Buyer on or before the Latest Date if:
- (i) the Building Permit is not granted by the Latest Date;
  - (ii) the Building Permit is granted subject to a condition which the Seller in the Seller's absolute discretion considers unacceptable or unwilling to comply with; or
  - (iii) the Seller in its absolute discretion elects not to proceed with the construction of the Building.
- (b) If the Seller gives the Buyer a written notice under clause 3.2(a), the Seller must repay the Deposit to the Buyer together with all accrued interest and all other money (if any) paid by the Buyer under this Contract without deduction except for any duty and taxes payable on interest accrued and, upon repayment, this Contract will be at an end and cease to have effect and neither party will have any claim against the other.

#### 3.3 Strata plan approval

- (a) This Contract is subject to and conditional upon:
- (i) the Seller obtaining the certificates and permits referred to in section 5B of the Strata Titles Act from the Relevant Authority; and

- (ii) the registration of the Strata Plan by the Registrar of Titles.
- (b) The Seller may terminate this Contract by giving a written notice to the Buyer if the conditions in clause 3.3(a) have not been satisfied by the Registration Date and the Seller must repay the Deposit to the Buyer together with all accrued interest and all other money (if any) paid by the Buyer under this Contract without deduction except for any duty and taxes payable on interest accrued and, upon repayment, this Contract will be at an end and cease to have effect and neither party will have any claim against the other.
- (c) The parties agree that the Buyer may only exercise its rights under section 70(4) of the Strata Titles Act if the Strata Plan is not registered by the Registration Date.

#### 3.4 Benefit of conditions precedent

Each of the conditions precedent in clauses 3.1 to 3.3 inclusive are for the benefit of the Seller.

### 4. Title and Disclosure

---

#### 4.1 Title

The Buyer:

- (a) acknowledges that the Property is sold subject to:
  - (i) Memorial L333028 under the CS Act;
  - (ii) Easement burden created under section 167 of the Planning and Development Act for telecommunications purposes to NBN Co Limited ACN 136 533 741 (see Deposited Plan 72635);
  - (iii) Restrictive Covenant M19733 (see Deposited Plan 72635);
  - (iv) the provisions of the Strata Titles Act;
  - (v) any easement or interest notified on the Strata Plan, including an easement for a sewer main and associated infrastructure;
  - (vi) any lease, easement, restrictive covenant or other rights granted by the Seller or the Strata Company at any time in favour of any other person or any Relevant Authority;
  - (vii) any other memorial or notification lodged pursuant to any Act either before or after the Contract Date;
  - (viii) the Unit Entitlement of the Property and all other matters contained in or annexed to the Strata Plan;

- (ix) the By-laws; and
  - (x) the Strata Company Management Agreement; and
- (b) must not make any objection, delay or refuse to effect Settlement, make any claim for a reduction in the Purchase Price or make claim for compensation or damages arising from the matters specified in this clause.

#### 4.2 Disclosure - CS Act

- (a) The Buyer acknowledges that:
- (i) the DER classified the Property as 'remediated for restricted use' on 12 November 2009 (Classification);
  - (ii) under section 68 of the CS Act, the Seller is required to disclose the Classification to the Buyer at least fourteen (14) days before Settlement;
  - (iii) the Buyer has read and received the form prescribed under section 68 of the CS Act, a copy of which is annexed to this Contract as Annexure E (Form 6) as a person becoming the owner of the Property; and
  - (iv) the Buyer is not entitled to and must not claim any objection, delay or refuse to effect Settlement, make any claim for a reduction in the Purchase Price or make claim for compensation or damages as a result of the Classification or arising from the matters specified in this clause 4.1(a).
- (b) The Buyer acknowledges that the Seller is required to provide a copy of Form 6 to any person becoming a mortgagee or a lessee of the Property pursuant to section 68 of the CS Act. The Buyer must inform the Seller or the Seller's Representative immediately or at least fifteen (15) Business Days before the Settlement Date of the contact details of:
- (i) any person becoming a mortgagee of the Property at or immediately after Settlement; and
  - (ii) any person becoming a lessee of the Property at or immediately after Settlement.

## 5. Finance

This clause will apply if Item 6 is completed. For the avoidance of doubt, if Item 6 has not been completed, then this clause does not apply to this Contract.

### 5.1 Buyer's obligation for finance approval

- (a) This Contract is conditional upon the Buyer obtaining Finance Approval on or before the Finance Approval Date.

- (b) The Buyer must within 14 days after the Contract Date make an application for Finance Approval to the Lender using the Property as security if required by the Lender and use the Buyer's best endeavours and in good faith to obtain Finance Approval.
- (c) If the Buyer does not comply with clause 5.1(b), it will not be entitled to terminate this Contract.
- (d) Notwithstanding any provisions to the contrary, unless the Buyer provides a written notice to the Seller or the Seller's Representative that the condition in clause 5.1(a) has not been satisfied or a written notice from the Lender that the Buyer's application for the Loan Amount has been declined on or before the Finance Approval Date, subject to clause 5.1(e) the Buyer will be deemed to have waived the condition in clause 5.1(a) and this Contract will be in full force and effect.
- (e) Notwithstanding the Buyer's waiver in clause 5.1(d), the Seller may in the Seller's absolute discretion rescind this Contract if the Buyer or the Lender fails to provide a written notice to the Seller or the Seller's Representative as stipulated in clause 5.1(d).
- (f) The Buyer acknowledges and agrees that the condition in this clause 5 will be deemed to have been satisfied upon Finance Approval being obtained even if the Finance Approval lapses or expires before the Settlement Date. The Seller will be under no obligation to agree to an extension to the Finance Approval Date.

## **5.2 Buyer must keep Seller informed**

- (a) At the Seller's or the Seller's Representative's written request, the Buyer must:
  - (i) advise the Seller or the Seller's Representative the progress of the Finance Application;
  - (ii) provide evidence in writing of making a Finance Application pursuant to clause 5.1(b) and of any loan offer or rejection made;
  - (iii) provide reasons for rejecting any loan offer; and
  - (iv) provide evidence in writing of the progress of the satisfaction of any terms and conditions of Finance Approval.
- (b) If the Buyer does not comply with the Seller's request in clause 5.2(a) within two Business Days, then the Buyer irrevocably authorises the Seller or the Seller's Representative to obtain the information referred to in clause 5.2(a) from the Lender.



### 5.3 Refund of deposit

If a party has the right to terminate under clause 5, then:

- (a) the termination must be effected by written notice to the other party;
- (b) clause 9 does not apply to the right to terminate;
- (c) upon termination the Deposit and any other monies paid by the Buyer to the Seller will be repaid to the Buyer; and
- (d) upon termination neither party will have any action against the other for breach of this Contract, except for a breach of clause 5.1(b) by the Buyer.

### 5.4 Extensions of Finance Approval Date

- (a) The Buyer acknowledges that nothing in this clause 5.4:
  - (i) is a promise by the Seller to agree to an extension of the Finance Approval Date;
  - (ii) creates an entitlement on the part of the Buyer to an extension of the Finance Approval Date; or
  - (iii) alters the stipulation in this Contract that time is of the essence of this Contract.
- (b) The Buyer acknowledges that if the Seller grants an extension of the Finance Approval Date at the request of the Buyer, any extension granted by the Seller is granted on the basis that time remains of the essence of this Contract.
- (c) If the Buyer requests an extension of the Finance Approval Date, the Seller may charge the Buyer \$55.00 for each granted extension after the first granted extension to cover the Seller's expenses associated with each extension.
- (d) The Buyer must pay any amount payable pursuant to clause 5.4(c) (Finance Extension Costs) by bank cheque or by trust cheque at Settlement or as an adjustment of the Purchase Price payable at Settlement, as directed by the Seller. If this Contract comes to an end in circumstances in which the Buyer is entitled to a refund of the Deposit, the Seller may deduct the Finance Extension Costs from the Deposit (and the Buyer's share (if any) of the interest on it) before refunding any Deposit payable to the Buyer (and the parties authorise the Deposit Holder accordingly). If the Deposit and the Buyer's share (if any) of the interest on it is insufficient to cover the Finance Extension Costs, the Seller may recover the Finance Extension Costs from the Buyer as a liquidated debt.
- (e) A request made by the Buyer for an extension of the Finance Extension Date is taken to be an affirmation of the Contract on the part of the Buyer.

## 6. Purchase price and settlement

---

### 6.1 Deposit

- (a) The Buyer must pay the Deposit in the amount and on the dates stipulated in Item 4 to the Deposit Holder.
- (b) If:
  - (i) the Buyer does not pay the Deposit in full as required by this Contract; or
  - (ii) the Buyer 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 two (2) Business Days of service of the notice.

- (c) The parties acknowledge and agree that the Deposit will be held by the Deposit Holder on trust for the Buyer until registration of the Strata Plan and the Deposit Holder will deal with the Deposit in compliance with section 70(1) of the Strata Titles Act and, if applicable, section 14(2)(b)(ii) of the Sale of Land Act.
- (d) The parties acknowledge and agree that the Deposit will be held on trust for both parties after the Strata Plan is registered for the purposes set out in clause 11.2 to the extent that it is applicable.
- (e) Subject to provision of a tax file number in Item 4, the Buyer may request and authorise the Deposit Holder to place the Deposit in an interest bearing account with the Deposit Holder's bank subject to the terms and conditions of the Deposit Holder's bank but nothing in this clause provides that the Deposit Holder is obliged to invest the Deposit as requested by the Buyer.
- (f) The Buyer is entitled to the interest accrued on the Deposit and will bear the risk of interest loss.
- (g) If a party terminates this Contract because of the other party's default, then the terminating party is entitled to keep the interest accrued on the Deposit by way of damages in addition to and without prejudice to any other right that party has under this Contract in law or in equity.
- (h) All bank and government charges, fees, taxes and levies will be deducted from the interest accrued on the Deposit before any payment is made under this clause 6.1.

### 6.2 Bank Guarantee

If the Seller expressly agrees in writing, the Buyer may satisfy the Buyer's obligation to pay the Deposit by the provision of a Bank Guarantee. The following will apply in relation to the Bank Guarantee.

- (a) The Deposit Holder is not obliged to accept a bank guarantee, and the Buyer will be deemed not to have fulfilled its obligation to provide a Bank Guarantee, which does not conform to the requirements of this Contract.
- (b) The Bank Guarantee must be in favour of the Deposit Holder for an amount equal to the Deposit and must be expressed to secure the performance of the obligations of the Buyer to the Seller under this Contract.
- (c) The Bank Guarantee must be provided to the Deposit Holder no later than the date the payment of the Deposit is due under this Contract.
- (d) Subject to clause 6.3, the Seller may cause the Deposit Holder to call on the Bank Guarantee without notice to the Buyer if the Buyer fails to perform its obligations as required by this Contract.
- (e) If the Deposit Holder named in the Bank Guarantee ceases to be the Seller's Deposit Holder, the Buyer must, no later than 7 days after receiving a request from the Seller, provide the new Deposit Holder with a replacement Bank Guarantee in their favour.
- (f) On Settlement, the Buyer must pay to the Seller the Purchase Price including an amount for payment of the Deposit, upon which the Seller must cause the Deposit Holder to return the Bank Guarantee to the Buyer.

### 6.3 Claims on deposit by the Buyer

- (a) This clause will apply if the Buyer contends that:
  - (i) this Contract has been terminated; and
  - (ii) the Buyer is entitled to payment of the Deposit or, where applicable, the return of the Bank Guarantee.
- (b) The Buyer must serve on the Seller a notice:
  - (i) specifying that this Contract has been terminated;
  - (ii) stating the basis on which the Buyer contends that this Contract has been terminated;
  - (iii) stating that the Deposit Holder is required to pay to the Buyer the Deposit (including any accrued interest on the Deposit) or, where applicable, return the Bank Guarantee to the Buyer; and
  - (iv) stating that if the Seller disputes that:
    - (A) this Contract has been terminated; or
    - (B) the Deposit including any accrued interest on the Deposit should be paid to the Buyer or, where applicable, the Bank Guarantee should be returned to the Buyer,

the Seller must give notice to the Buyer and the Deposit Holder within ten (10) Business Days of service of this notice.

- (c) The Buyer must provide proof to the Deposit Holder of the service of the notice referred to in clause 6.3(b).
- (d) Unless the Seller serves a notice on the Deposit Holder under clause 6.3(e) and within the time specified in that clause, the Deposit Holder must pay to the Buyer the Deposit or, where applicable, return the Bank Guarantee to the Buyer after:
  - (i) the expiry of 10 Business Days after the last to occur of service of the notice referred to in clause 6.3(b) on the Deposit Holder and the Seller; and
  - (ii) the Deposit Holder has received proof as required under clause 6.3(c), that the notice has been served on the Seller.
- (e) The Seller may within 10 Business Days after service of the notice on the Seller referred to in clause 6.3(b) serve a notice on the Buyer and the Deposit Holder:
  - (i) stating that the Seller disputes that the Buyer is entitled to receive the Deposit; and
  - (ii) specifying the reasons why the Seller contends that the Buyer is not entitled to receive the Deposit or, where applicable, the return of the Bank Guarantee.
- (f) If the Seller serves a notice on the Buyer and the Deposit Holder under clause 6.3(e), the Deposit Holder may institute interpleader proceedings in court and deduct from the Deposit or, where applicable, claim on the Bank Guarantee, the legal cost and expense incurred by the Deposit Holder in connection with the interpleader proceedings.
- (g) Both parties direct the Deposit Holder to comply and release the Deposit Holder from liability for complying with the provisions of this clause 6.3.
- (h) Payment by the Deposit Holder of the Deposit or, where applicable, a claim on the Bank Guarantee or the return of the Bank Guarantee to the Buyer, in accordance with this clause discharges the Deposit Holder from any further liability in respect to the Deposit.
- (i) The Buyer's failure to serve a notice referred to in clause 6.3(b) does not affect, and will not be treated as a waiver of, any right as between the parties.
- (j) In this clause, a reference to the Deposit includes any money in addition to the Deposit paid to the Deposit Holder by the Buyer in accordance with this Contract and any interest accrued on the Deposit or any other money invested by the Deposit Holder in accordance with this Contract and any Bank Guarantee provided by the Buyer..

#### 6.4 Claims on deposit by the Seller

- (a) The Buyer irrevocably authorises the Deposit Holder to release the Deposit to the Seller or, where applicable, to claim on the Bank Guarantee for the benefit of the Seller, if the Deposit Holder receives a notice from the Seller:
  - (i) specifying that this Contract has been terminated; and
  - (ii) stating that the Deposit Holder is required to pay the Deposit including any accrued interest on the Deposit to the Seller or, where applicable, stating that the Deposit Holder is required to claim on the Bank Guarantee for the benefit of the Seller.
- (b) Both parties direct the Deposit Holder to comply and release the Deposit Holder from liability for complying with the provisions of this clause 6.4.
- (c) Payment by the Deposit Holder of the Deposit or, where applicable, a claim on the Bank Guarantee for the amount of the Deposit, in accordance with clause 6.4(a) discharges the Deposit Holder from any further liability in respect to the Deposit.
- (d) The Seller's failure to serve a notice referred to in clause 6.4(a) does not affect, and will not be treated as a waiver of, any right as between the parties.
- (e) In this clause, a reference to the Deposit includes any money in addition to the Deposit paid to the Deposit Holder by the Buyer in accordance with this Contract and any interest accrued on the Deposit or any other money invested by the Deposit Holder in accordance with this Contract and any amount of a Bank Guarantee provided by the Buyer.

#### 6.5 Settlement date and inspection

- (a) The Settlement Date will be the date specified in Item 7.
- (b) The Seller will contact the Buyer prior to the Settlement Date to arrange an inspection of the Property on a Business Day at a time between 9:00am and 4:00pm. Such inspection will occur only once.
- (c) The Buyer may notify the Seller of any minor defects in the construction of the Property (except for defects in respect of any variation requested by the Buyer and approved by the Seller) or the Common Property. A defect is considered as a minor defect if the Buyer's use and enjoyment of the Property is not materially affected.
- (d) The Seller will inspect and rectify the minor defects identified by the Buyer in clause 6.5(c) within a reasonable time before or after the Settlement Date. The Buyer will not delay Settlement by reason that the Seller has not rectified any or all of the minor defects by the Settlement Date or make any claim for reduction of the Purchase Price or compensation or terminate this Contract by reason of such minor defects.

**6.6 Settlement**

- (a) The Buyer must prior to Settlement:
  - (i) arrange for the Transfer to be prepared;
  - (ii) sign the Transfer;
  - (iii) arrange for this Contract and the Transfer to be endorsed by the Office of State Revenue; and
  - (iv) deliver the Transfer endorsed by Office of State Revenue to the Seller's Representative at least five Business Days before the Settlement Date.
- (b) The Seller must specify the place for Settlement which must at the offices of the Seller's Representative or at another place within the area in the City of Perth bounded by Milligan Street, Mount Street, Spring Street, Mounts Bay Road, The Esplanade, Barrack Street, Riverside Drive, Governor's Avenue, Terrace Road, Plain Street, Wellington Street, Pier Street, James Street, William Street and Wellington Street including both sides of each street and road.
- (c) The Seller must specify a time for Settlement which must not be earlier than 10:30 am or later than 3:30 pm on the Settlement Date.
- (d) The parties must complete Settlement on the Settlement Date.
- (e) The Buyer must on Settlement pay:
  - (i) to the Seller; or
  - (ii) to any other person as the Seller or the Seller's Representative has directed in writing not later than two Business Days before the Settlement Date,

the balance of the Purchase Price and any other money payable by the Buyer as directed by the Seller's Representative at Settlement less any deductions allowed under this Contract by bank cheques.

- (f) If the Seller requires the Buyer to provide more than three bank cheques at Settlement, the Seller must pay the Buyer at Settlement the bank fees incurred by the Buyer in order to obtain more than three bank cheques.
- (g) If a cheque provide by the Buyer at Settlement is dishonoured on presentation, the Buyer:
  - (i) is in default; and
  - (ii) remains liable to pay to the Seller the amount of the cheque, together with interest on that amount at the Prescribed Rate from and including the Settlement Date to but excluding the date on which the Buyer pays that amount with interest to the Seller.

- (h) The Seller must at Settlement give the Buyer:
  - (i) the duplicate Certificate of Title but if a duplicate Certificate of Title has not been issued in accordance with section 48B(1)(a) of the Transfer of Land Act, the Seller will not be obliged to give the duplicate Certificate of Title to the Buyer at Settlement; and
  - (ii) the Transfer signed by the Seller.
- (i) The parties authorise the Deposit Holder to pay the Deposit and any accrued interest on the Deposit to the Seller at Settlement.
- (j) The Buyer must provide to the Seller a photocopy of the Contract showing payment of transfer duty if requested by the Seller after the Settlement Date.

#### 6.7 Post settlement

- (a) If the Buyer is not in default, it is entitled to vacant possession of the Property at Settlement.
- (b) Within two Business Days after Settlement, the Buyer must attend the office of the Seller or at any other location as advised by the Seller or the Seller's Representative from time to time during the hours of 9:00 am and 4:30 pm for the purpose of handover of any keys or access devices, warranties, instruction or operation manuals or any other written materials related to the use of the Property, the Common Property and the household appliances in the Property.
- (c) The Buyer must lodge the Transfer and every other document required to enable the Transfer to be registered at Landgate immediately after Settlement and in any event not later than three Business Days after Settlement and the Buyer must then use its best endeavours to ensure that the Transfer is registered as soon as possible.
- (d) If a requisition notice is issued by Landgate relating to the registration of the Transfer or any other document which is lodged for registration with the Transfer, the parties must immediately do everything reasonably necessary to satisfy the requirements of the requisition notice.
- (e) Where a requisition notice is issued by Landgate in respect to a document prepared by or on behalf of the Seller, the Seller must pay the fee required by Landgate in respect to that requisition notice.
- (f) Where 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 three Business Days before the time for payment prescribed by Landgate.

## 6.8 Extensions of Settlement Date

- (a) The Buyer acknowledges that nothing in this clause 6.8(a):
  - (i) is a promise by the Seller to agree to an extension of the Settlement Date;
  - (ii) creates an entitlement on the part of the Buyer to an extension of the Settlement Date; or
  - (iii) alters the stipulation in this Contract that time is of the essence of this Contract.
- (b) The Buyer acknowledges that if the Seller grants an extension of the Settlement Date at the request of the Buyer, any extension granted by the Seller is granted on the basis that time remains of the essence of this Contract.
- (c) If the Buyer requests an extension of the Settlement Date, the Seller may charge the Buyer \$330.00 for each extension of the Settlement Date granted to cover the Seller's expenses associated with each extension.
- (d) The Buyer must pay any amounts payable pursuant to clause 6.8(c) (**Settlement Extension Costs**) by bank cheque or by trust cheque at Settlement or as an adjustment of the Purchase Price payable at Settlement, as directed by the Seller. If this Contract comes to an end in circumstances in which the Buyer is entitled to a refund of the Deposit, the Seller may deduct the Settlement Extension Costs from the Deposit (and the Buyer's share (if any) of the interest on it) before refunding any Deposit payable to the Buyer (and the parties authorise the Deposit Holder accordingly). If the Deposit and the Buyer's share (if any) of the interest on it is insufficient to cover the Settlement Extension Costs, the Seller may recover the Settlement Extension Costs from the Buyer as a liquidated debt.
- (e) A request made by the Buyer for an extension of the Settlement Date is taken to be an affirmation of the Contract on the part of the Buyer.
- (f) If the Seller grants an extension of the Settlement Date at the request of the Buyer, the Seller may, at its election:
  - (i) require the Buyer to pay default interest under clause 8.1 calculated at the Prescribed Rate from the original Settlement Date to the extended Settlement Date (inclusive); and/or
  - (ii) require adjustments of the Purchase Price to be calculated as at the original Settlement Date; and/or
  - (iii) decline to provide to the Buyer the benefit of any Contract incentives including those which are dependent on Settlement occurring on the original Settlement Date (if any).



## 7. Adjustment to the Purchase Price

---

### 7.1 Definitions

In this clause 7:

**External Floor Area** means all parts of the Property which is not Internal Floor Area including balconies, car parking bays, storage areas, courtyards, verandas, gardens and similar areas;

**Useable Area** means the floor area that forms the space between the internal faces of all walls in the Property; and

**Total Floor Area** means the aggregate of the Internal Floor Area and the External Floor Area.

### 7.2 Variations to Strata Plan

- (a) Notwithstanding anything to the contrary contained elsewhere in the Contract, the Buyer is not entitled to make any objection, requisition or claim for compensation or terminate the Contract and confirms that the Buyer is not materially prejudiced by reason of:
- (i) any variation to the Useable Area between the Proposed Strata Plan and the Strata Plan unless that variation exceeds 5% of the intended Useable Area as shown on the Proposed Strata Plan;
  - (ii) any variation to the External Floor Area between the Proposed Strata Plan and the Strata Plan unless that variation exceeds 10% of the intended External Floor Area; or
  - (iii) any variation in the number, size or location of any Lot (other than the Property) shown on the Strata Plan or to the Common Property so long as such variation does not vary the Unit Entitlement of the Property without the Buyer's prior written consent.
- (b) If the actual Useable Area as shown on the Strata Plan is less than 95% of the intended Useable Area as shown on the Proposed Strata Plan, the Purchase Price is to be reduced at Settlement to an amount calculated by multiplying the Purchase Price by the fraction obtained by dividing the actual Total Floor Area as shown on the Strata Plan by the figure which is 95% of the intended Total Floor Area as shown on the Proposed Strata Plan.
- (c) If the actual External Floor Area as shown on the Strata Plan is less than 90% of the intended External Floor Area as shown on the Proposed Strata Plan, the Purchase Price is to be reduced at Settlement to an amount calculated by multiplying the Purchase Price by the fraction obtained by dividing the actual

Total Floor Area as shown on the Strata Plan by the figure which is 90% of the intended Total Floor Area as shown on the Proposed Strata Plan.

- (d) If:
- (i) the actual Useable Area as shown on the Strata Plan is less than 95% of the intended Useable Area as shown on the Proposed Strata Plan; and
  - (ii) the actual External Floor Area as shown on the Strata Plan is less than 90% of the intended External Floor Area as shown on the Proposed Strata Plan,

the Purchase Price is to be reduced at Settlement to an amount calculated by multiplying the Purchase Price by the fraction obtained by dividing the actual Total Floor Area as shown on the Strata Plan by the figure which is 95% of the intended Total Floor Area as shown on the Proposed Strata Plan.

- (e) In the event of a dispute as to any claim arising under clauses 7.2(b), 7.2(c) or 7.2(d), the matter will be determined by the Project Manager:
- (i) who is to act as an expert and not an arbitrator; and
  - (ii) whose decision will be final and binding on the parties except in the case of obvious error.
- (f) The parties acknowledge and agree that any reduction in the Purchase Price made pursuant to clauses 7.2(b), 7.2(c) and/or 7.2(d) is in full and final satisfaction of any claim which the Buyer may have in respect of any variation to the Proposed Strata Plan or any difference between the floor area of the Property as shown on the Proposed Strata Plan and as finally measured following construction of the Building.

### **7.3 Increase in Floor Area of Property**

- (a) The Buyer is not entitled to make any objection, requisition or claim for compensation or terminate the Contract and confirms that the Buyer is not materially prejudiced by reason of:
- (i) any increase in the Useable Area between the Proposed Strata Plan and the Strata Plan as registered with Landgate; or
  - (ii) any increase to the External Floor Area between the Proposed Strata Plan and the Strata Plan as registered with Landgate.
- (b) If the actual Total Floor Area as shown on the Strata Plan is greater than the intended Total Floor Area as shown on the Proposed Strata Plan, the Seller may elect, by notice in writing to the Buyer, to increase the Purchase Price payable at Settlement to an amount calculated by multiplying the Purchase Price by the fraction obtained by dividing the actual Total Floor Area as shown on the Strata Plan by the intended Total Floor Area as shown on the Proposed Strata Plan.

- (c) In the event of a dispute as to any claim arising under this clause 7.3, the matter will be determined by the Project Manager:
  - (i) who is to act as an expert and not an arbitrator; and
  - (ii) whose decision will be final and binding on the parties except in the case of obvious error.
  
- (d) If the Buyer:
  - (i) is unwilling to pay the increased Purchase Price nominated by the Seller in accordance with clause 7.3(b); and
  - (ii) gives written notice to the Seller by the date which is the earlier of:
    - (A) five Business Days after the date on which the Seller's notice under clause 7.3(b) is given to the Buyer; and
    - (B) two Business Days before the Settlement Date,

then, prior to Settlement, the Seller may (in its absolute discretion) terminate the Contract by notice in writing to the Buyer.
  
- (e) If the Seller terminates the Contract under clause 7.3(d):
  - (i) the Seller must repay the Deposit to the Buyer together with all accrued interest and all other money (if any) paid by the Buyer under this Contract without deduction except for any duty and taxes payable on interest accrued; and
  - (ii) upon repayment, this Contract will be at an end and cease to have effect and neither party will have any claim against the other.

## 8. Delay in settlement

---

### 8.1 Buyer's delay

- (a) If for any reason not attributable to the Seller, Settlement is not completed on the Settlement Date, the Buyer must pay to the Seller at Settlement interest at the Prescribed Rate on the balance of the Purchase Price and any other money payable by the Buyer to the Seller at Settlement calculated from and including the Settlement Date to but excluding the date on which Settlement occurs.
- (b) The Seller must give notice to the Buyer requiring the payment of the interest under clause 8.1(a).
- (c) The Seller's right to claim interest under clause 8.1(a) is conditional on the Seller being ready, willing and able to complete Settlement on the Settlement Date and if the Seller is not then the Seller's right to claim interest under clause 8.1(a) will commence and be calculated from and including the day on

which the Seller is ready, willing and able to complete the Settlement and the Seller has given notice of that fact to the Buyer.

## 8.2 Seller's delay

- (a) If for any reason not attributable to the Buyer, Settlement is not completed on the Settlement Date, the Seller must pay to the Buyer at Settlement interest at the Prescribed Rate on the balance of the Purchase Price calculated from and including the Settlement Date to but excluding the date on which Settlement occurs.
- (b) The Buyer must give notice to the Seller requiring the payment of the interest under clause 8.2(a).
- (c) The Buyer's right to claim interest under clause 8.2(a) is conditional on the Buyer being ready, willing and able to complete Settlement on the Settlement Date and if the Buyer is not then the Buyer's right to claim interest under clause 8.2(a) will commence and be calculated from and including the day on which the Buyer is ready, willing and able to complete the Settlement and the Buyer has given notice of that fact to the Seller.

## 9. Default

---

### 9.1 Default notice

Time will be of the essence in respect of this Contract but neither party may terminate this Contract as a result of the other party's default unless the non-defaulting party gives a Default Notice to the default party and the default party fails to remedy the default within the time required under the Default Notice.

### 9.2 Buyer's default

- (a) If the Buyer is in default under this Contract and has failed to comply with a Default Notice or repudiates this Contract, the Seller may in addition to any of the Seller's other right or remedy:
  - (i) affirm this Contract and sue the Buyer for damages for default;
  - (ii) affirm this Contract and sue the Buyer for specific performance of this Contract or damages for default in addition to or instead of specific performance;
  - (iii) retake possession of the Property;
  - (iv) terminate this Contract by notice to the Buyer, but only if the Default Notice given under clause 9.1 includes a statement that if the default is not remedied within the time specified in the Default Notice this Contract may be terminated; or

- (v) terminate this Contract by notice to the Buyer where the Buyer repudiates this Contract.
- (b) If the Seller terminates this Contract then the Seller may:
  - (i) claim the Deposit including any interest accrued on the Deposit;
  - (ii) sue the Buyer for damages for default;
  - (iii) repossess the Property if the Seller is not in possession of the Property;  
or
  - (iv) resell the Property as the Seller thinks fit.

### 9.3 Seller's default

- (a) If the Seller is in default under this Contract and has failed to comply with a Default Notice or repudiate this Contract, the Buyer may:
  - (i) affirm the Contract and sue the Seller for damages for default;
  - (ii) affirm the Contract and sue the Seller for specific performance of this Contract or damages for default in addition to/or instead of specific performance;
  - (iii) terminate this Contract by notice to the Seller, but only if the Default Notice given under clause 9.1 includes a statement that if the default is not remedied within the time specified in the Default Notice this Contract may be terminated; or
  - (iv) terminate this Contract by notice to the Seller where the Seller repudiates this Contract.
- (b) If the Buyer terminates this Contract then the Buyer may claim the Deposit including any interest accrued on the Deposit and the Seller must repay the Deposit to the Buyer together with all accrued interest and all other money (if any) paid by the Buyer under this Contract without deduction except for any duty and taxes payable on interest accrued.
- (c) The repayment in clause 9.3(b) will be paid to the Buyer as full and final satisfaction of any claim the Buyer has or may have against the Seller and, upon repayment, this Contract will be at an end and cease to have effect.

### 9.4 Default cost

- (a) If the Buyer is in default under this Contract, the Buyer must pay the Seller's reasonable legal costs and expenses incurred by the Seller arising from the Buyer's default.
- (b) If the costs and expenses in clause 9.4(a) have been determined before Settlement, the Buyer must pay the Seller's legal costs and expenses on

Settlement but if the legal costs and expenses have not been determined before Settlement, then the Buyer must pay the Seller's legal costs and expenses after Settlement on demand by the Seller.

- (c) If the Seller is in default under this Contract, the Seller must pay the Buyer's reasonable legal costs and expenses incurred by the Buyer arising from the Seller's default.
- (d) If the costs and expenses in clause 9.4(c) have been determined before Settlement, the Seller must pay the Buyer's legal costs and expenses on Settlement but if the legal costs and expenses have not been determined before Settlement, then the Seller must pay the Buyer's legal costs and expenses after Settlement on demand by the Buyer.

## 10. Risk

---

The Seller accepts all risk relating to the Property until and up to Settlement. Risk will pass from the Seller to the Buyer when:

- (a) the Purchase Price is paid in full; or
  - (b) the Buyer is entitled to possession of the Property; or
  - (c) the Buyer is given possession of the Property,
- whichever is the earlier event.

## 11. Encumbrances

---

### 11.1 Caveats

- (a) The Buyer must not lodge a caveat against the Land, the Property, the Common Property or any part of the Strata Plan.
- (b) If the Buyer lodges any caveat against the Land, the Property, the Common Property or any part of the Strata Plan, the Buyer irrevocably appoints the Seller as the Buyer's attorney to sign or execute a withdrawal of any caveat lodged by the Buyer and do all things necessary to lodge the withdrawal of caveat at Landgate at the Buyer's expense.

### 11.2 Existing and future mortgages

- (a) The Seller must discharge any mortgage registered on the Property on or before Settlement and before the Buyer becoming or upon the Buyer becoming, entitled to possession or to receipt of the rents and profits under this Contract.

- (b) At Settlement, the Seller may require the Deposit and all other money payable by the Buyer under this Contract as directed by the Seller to discharge any mortgages affecting the Property.
- (c) The Seller gives notice to the Buyer that the Land of which the Property forms part is subject to the Mortgage and other encumbrances which are registered against the Land for the purposes of section 7 of the Sale of Land Act.
- (d) The Buyer consents to the Seller further encumbering the Seller's interest in the Land by granting one or more other mortgages over the whole or any part of the Seller's interest in the Land for the purposes of section 8 of the Sale of Land Act.
- (e) This clause 11.2 must prevail over the other provisions of this Contract to the extent of any inconsistency contained in this Contract.

## 12. Development

---

### 12.1 Development generally

- (a) Subject to the Seller obtaining approvals from the Relevant Authority with respect to the Development, the Seller will use its reasonable endeavours to construct the Development and cause Practical Completion to be achieved as soon as practicable in accordance with the Plans, Floor Plans, Specifications and the terms contained in this Contract.
- (b) Subject to clause 12.1(c) and clause 12.2, the Seller will carry out and complete the Development to ensure that:
  - (i) the internal layout of the Property is generally as that depicted in the Floor Plan;
  - (ii) the Property is generally as detailed in the Specifications; and
  - (iii) the items specified in the Floor Plan and the Specifications are installed in the Property and the Building as required.
- (c) The Seller may in the Seller's absolute discretion substitute any fixture or finishing specified under the Specifications with any fixture or finishing that in the Seller's opinion is of no lesser quality or that does not materially prejudice the Buyer.
- (d) The Seller will use the Seller's reasonable endeavours to ensure that the Building will be constructed by the Builder:
  - (i) in accordance with best industry practice;
  - (ii) in a proper and workmanlike manner and using materials which are of high quality, in good condition and suitable for their intended use; and

- (iii) in compliance with all applicable laws and regulations.
- (e) The Buyer acknowledges and agrees that:
  - (i) the Seller may carry out all works at any time during the warranty period both internal of and external to the Building for any purpose or rectifying any defects, repair and maintenance of the Building; and
  - (ii) the Seller may require access to the Common Property from time to time in order to carry out the works and activities referred to in clause 12.1(e)(i).
- (f) The Seller will use the Seller's reasonable endeavours to minimise any interference to the Buyer's quiet enjoyment of the Property in carrying out the works in clause 12.1(e)(i).
- (g) The Buyer must cooperate with the Seller and provide all assistance reasonably required by the Seller in relation to completing the works and activities in clause 12.1(e)(i) and in contemplation of clause 12.1(d) the Buyer must not:
  - (i) make any objection to the works, activities, access to the Common Property or the Buyer's discomfort;
  - (ii) delay or refuse to effect Settlement or withhold any of the money payable by the Buyer at Settlement because of any works, activities or the Buyer's discomfort; or
  - (iii) make any claim for a reduction in the Purchase Price or strata fees or compensation on account of the execution of any works, activities or the Buyer's discomfort.
- (h) The Buyer must not object to, or make any requisition or claim for compensation or damages in respect of any system or services (including any transformer, sewer, water or other main pipe, wire or connection in respect of water, sewerage, drainage, gas, electricity or telephone) affecting or serving the Property, any other part of the Building or any other part of the Land.

## 12.2 Variations to the development

- (a) The Seller may vary the Development including the Floor Plans, the Plans, the Proposed Strata Plan, the Strata Plan or the Specifications as the Seller considers necessary if:
  - (i) required by any Relevant Authority;
  - (ii) the Seller considers the variation will enhance the Development or the Property;
  - (iii) there is some matter or circumstance that the Seller could not have reasonably foreseen;
  - (iv) by reason of the requirements or the practical methods of construction;



- (v) the cost of materials or products in the Specifications has risen so that it is reasonable for the Seller to substitute them with similar materials or products that in the Seller's opinion is of no lesser quality; or
  - (vi) the availability of materials or products described in the Specification has become difficult or impossible to obtain so that it is reasonable for the Seller to substitute them with similar materials or products that in the Seller's opinion is of no lesser quality.
- (b) Notwithstanding anything to the contrary in this Contract (including clause 7), the Buyer:
- (i) agrees that it is not and will not be materially prejudiced by; and
  - (ii) must not make any objection, requisition, claim for compensation, claim a reduction in the Purchase Price or refuse to complete Settlement by reason of:  
any of the following:
    - (iii) any variation to the Plans, the Proposed Strata Plan, the Strata Plan or the Floor Plan which may be required by the Seller or any Relevant Authority where that variation does not materially prejudice the Buyer;
    - (iv) any variation in the construction or Specifications necessary to comply with the requirements of any Relevant Authority, the industry standard or the availability of material;
    - (v) any variation in the number, size or location of any Lot or the area of the Common Property created on a strata plan, re-subdivision or consolidation;
    - (vi) the Unit Entitlement of any Lot or the re-allocation of the Unit Entitlement of the Property or any other Lot;
    - (vii) any variation to the Common Property and any other areas other than the Property;
    - (viii) any variation in the number, size or location of car parking spaces or storerooms; or
    - (ix) any variation to the location of the letter boxes,and none of the matters in this clause 12.2(b) will entitle the Buyer to terminate this Contract or require the Seller to enter into any supplementary agreement with the Buyer.
- (c) Subject to clause 12.2(b), if the Seller serves a notice on the Buyer specifying a variation to the disclosure information contained in this Contract, the Buyer will have seven (7) Business Days from the date of service of such notice by the Seller to give notice to the Seller that the Buyer wishes to avoid this Contract in accordance with section 69D(2) of the Strata Titles Act.

**12.3 No variation**

The Buyer acknowledges that the Seller has undertaken significant work in planning and designing with regard to the Floor Plan and the Specifications and the Buyer agrees that it will not make any request to vary the Floor Plan or the Specifications for any reason whatsoever and accepts that the Seller will not agree to any request by the Buyer to vary the Floor Plan and the Specifications.

**12.4 Defects in the Building**

- (a) The issue of the certificate of Practical Completion by the Seller's Architect will be conclusive evidence that the Building has been constructed in accordance with the requirements of this Contract.
- (b) The Buyer must not delay or refuse to effect Settlement or withhold or threaten to withhold any part of the money payable to the Seller at Settlement due to the existence of:
  - (i) minor defects in the construction of the Building; or
  - (ii) minor differences between the Specifications and the Building as constructed where those differences do not adversely affect the Buyer in a material way.
- (c) Notwithstanding clause 12.4(a) the Buyer is not required to complete Settlement where the Property contains a Major Defect until such time the Seller rectifies the Major Defect.
- (d) The Buyer acknowledges and accepts that the materials referred to in the Specifications or used in the Property may:
  - (i) comprise natural products;
  - (ii) exhibit variations in shade, colour, texture, surface finish or markings;
  - (iii) expand, contract or distort over time due to exposure to changes in the weather;
  - (iv) mark or stain if exposed to certain substances; and
  - (v) be damaged by impact or scratching or other mechanical means,
 and the Buyer:
  - (vi) agrees that it is not and will not be materially prejudiced by any of the matters specified in this clause 12.4(d); and
  - (vii) agrees and accepts that none of the matters referred to in this clause 12.4(d) will constitute a defect and that the Buyer must not make a claim for compensation, damages or requisition or rescind or terminate this Contract due to the existence or occurrence of any of the matters referred to in this clause 12.4(d).

- (e) If there is any dispute between the parties in connection with this clause 12:
  - (i) the Buyer must not make any objection, requisition, claim for compensation or damages nor rescind or terminate this Contract;
  - (ii) either party may refer the dispute to the Project Manager for resolution on the basis that, in resolving the dispute:
    - (A) the Project Manager will act as an expert and not as an arbitrator; and
    - (B) the Project Manager's decision will be final and binding on the parties except in the case of obvious error.

## 12.5 Warranty period

- (a) If, after Settlement, the Buyer discovers a material defect or fault in the Property, the Buyer may give written notice to the Seller:
  - (i) specifying the nature of that material defect or fault; and
  - (ii) requesting the Seller to procure the rectification of that material defect or fault.
- (b) The Buyer's notice under clause 12.5(a) must be given to the Seller promptly after the Buyer discovers the material defect or fault and, in any event, not later than the date which is 11 months after the date of Practical Completion.
- (c) If the Buyer gives written notice to the Seller under clauses 12.5(a) and 12.5(b), the Seller must promptly notify the Builder of the material defect or fault and request that the Builder rectify that material defect or fault.
- (d) The Seller's obligations in respect of the rectification of a material defect or fault in the Property are limited to the obligations comprised in clause 12.5(c).
- (e) For clarity, the Seller will not be obliged to perform the obligations comprised in clause 12.5(c) in respect of material defects or faults which are not notified to the Seller in accordance with clauses 12.5(a) and 12.5(b).
- (f) In the case of any dispute between the parties as to the existence or rectification of any material defect or fault in the Property, either party may refer the dispute to the Project Manager for resolution on the basis that, in resolving the dispute:
  - (i) the Project Manager will act as an expert and not as an arbitrator; and
  - (ii) the Project Manager's decision will be final and binding on the parties except in the case of obvious error.

### 13. Strata company

---

#### 13.1 By-laws

- (a) The Buyer unconditionally approves the By-laws and consents to the Strata Company adopting the By-laws.
- (b) If the Seller intends to amend the terms of the proposed Management Statement prior to registration, the Seller will provide a copy of the revised Management Statement to the Buyer prior to Settlement.
- (c) The Buyer acknowledges that there may be:
  - (i) proposed amendments to the By-laws; and
  - (ii) proposals to pass resolutions,

by the Strata Company at the first annual general meeting of the Strata Company if the Seller considers that such an amendment or proposal is necessary and reasonable to enable the Seller to proceed with and complete the Development or to establish a fair system of By-laws.

#### 13.2 Power of attorney and proxy

- (a) In consideration of the Seller entering into this Contract, the Buyer irrevocably:
  - (i) appoints the Seller and each of the Seller's officers, jointly and severally, as the Buyer's lawful attorney and proxy and the attorneys may enter into and execute all such deeds, instruments and agreements and do all such acts or things as the attorneys deem expedient for the purpose of:
    - (A) calling any meeting of the Strata Company;
    - (B) calling any meeting of the council of the Strata Company;
    - (C) accepting service of notices calling any meeting of the Strata Company;
    - (D) attending and voting at the first annual general meeting of the Strata Company (to the Buyer's exclusion if the Buyer is present at the meeting) for the purposes of dealing with any matter arising at the meeting in accordance with the terms of this Contract including any matters which the Seller considers necessary to enable the Seller to proceed with and complete the Development including any change of the use of Common Property or variation to the use or allocation of carparking;
    - (E) attending and voting at any general meeting called by the Seller without any requirement for any other proprietors to attend, to vote and pass resolutions in relation to the re-subdivision of the

- Common Property and changes to the Unit Entitlements and if deemed necessary by the Seller amendments to the By-laws;
- (F) attending and voting on the Buyer's behalf in such manner as the attorneys in their absolute discretion think fit at any meeting of the Strata Company or council of the Strata Company to the Buyer's exclusion if the Buyer is present at such meetings;
  - (G) exercising and performing the powers and duties in accordance with the Management Statement;
  - (H) consenting to the passing at any time of any by-law conferring on the proprietor of the Property or any other Lot the exclusive use or enjoyment or special privileges in respect of any parts of the Common Property;
  - (I) granting or consenting to the grant of or do any other act or thing necessary to facilitate the grant of any easement, right, privilege or licence which the Buyer is obliged to grant, consent to or facilitate the grant of within the terms of this Contract;
  - (J) proposing and voting for any by-law for any purpose or in any circumstances contemplated by this Contract or which the Seller considers necessary whether by way of repeal, substitution or amendment of the By-laws; and
  - (K) doing any act or thing that the Buyer is obliged to do under this Contract provided that the Seller gives the Buyer prior written notice of the required act or thing and the Buyer fails to comply with that notice within the period stipulated in that notice; and
- (ii) agrees to ratify and confirm all that an attorney and proxy do pursuant to this clause 13.2.
- (b) The power of attorney in clause 13.2(a) is irrevocable and will remain in full force and effect until the earlier of the date on which the attorney resigns and the date which is the later of:
    - (i) the day after the first annual general meeting of the Strata Company; and
    - (ii) the date on which the Seller ceases to be a registered proprietor of a lot of the Development.
  - (c) The Buyer acknowledges and agrees that clause 13.2(b) may be used as evidence to the Registrar of Titles that the power of attorney has not been revoked during the period stipulated in clause 13.2(b) notwithstanding the power of attorney has not been registered at Landgate within three months after the date of this Contract.

### 13.3 Appointment of strata manager

The Buyer unconditionally and irrevocably consents to the appointment by the Strata Company of a suitably qualified and experienced strata manager as the manager of the Strata Company on terms satisfactory to the Strata Company. The Buyer must vote for and ratify any resolution of the Strata Company with respect to that appointment and the terms of that appointment if requested in writing by the Seller.

## 14. Adjustment of outgoings

---

### 14.1 Rates and taxes

- (a) If the Property is separately rated by the Relevant Authority before the Settlement Date then the Outgoings payable by the parties will be apportioned on the Settlement Date. The Seller will pay each Outgoing payable up to and including the Settlement Date and the Buyer will pay each Outgoing payable after the Settlement Date.
- (b) Subject to clause 14.2, if the Property is not separately rated by the Relevant Authority on the Settlement Date, then the applicable Outgoing will be adjusted at the Seller's election, either:
  - (i) at Settlement in a manner that the Seller considers fair and reasonable including having regard to the area of the Property, the area of the parcel of land comprised in the Strata Plan and the area of the land to which the assessment of the Relevant Authority relates; or
  - (ii) after Settlement when the relevant information becomes available from the Relevant Authority.
- (c) If the Seller elects to adjust the Outgoing after Settlement, the Seller will provide an estimate of the Buyer's proportion of Outgoings and the Buyer will pay this amount to the Seller's Representative until the relevant information becomes available whereupon the Seller's Representative will apportion the amount of Outgoings payable in respect of the Property. The Buyer irrevocably authorises the Seller's Representative to deduct and pay the Buyer's proportion of Outgoings and any balance will be refunded to the Buyer as soon as is practicable. If there is a shortfall in the amount due by the Buyer after apportionment, then the Buyer will pay that amount to the Seller's Representative on demand.

### 14.2 Land tax adjustment

- (a) If the Seller is assessed for Land Tax in respect of the Property as a subdivided lot, Land Tax will be apportioned as an Outgoing in accordance with clause 14.1(a) and the formula set out in clause 14.2(b) and, at Settlement, the Buyer is liable to pay or reimburse the Seller for the Buyer's proportion of the Land Tax except where:
  - (i) the Property is or will, on Settlement, be a residence; and

- (ii) the Buyer intends to use the Property (and does, in fact, use the Property) as the Buyer's principal place of residence immediately after Settlement.
- (b) The amount of Land Tax to be apportioned between the Seller and the Buyer under clause 14.2(a) is to be calculated according to the following formula:

$$\text{AAP} = \frac{\text{Total Assessment}}{\text{Total UE}} \times \frac{\text{UEP}}{1}$$

where:

**AAP** means the amount of Land Tax attributable to the Property;

**Total Assessment** means the total amount of Land Tax assessed or charged against or otherwise payable in respect of the aggregated unimproved value of all Lots owned by the Seller as at midnight on the 30 June immediately preceding the Settlement Date;

**Total UE** means the total Unit Entitlement of all Lots shown on the Land Tax assessment; and

**UEP** means the Unit Entitlement of the Property.

- (c) If the Seller is assessed for Land Tax in respect of the Land as a whole (and does not receive a separate assessment in respect of the Property as a subdivided lot), Land Tax will be apportioned as an Outgoing in accordance with clause 14.1(a) and the formula set out in clause 14.2(d) and, at Settlement, the Buyer is liable to pay or reimburse the Seller for the Buyer's proportion of the Land Tax, except where:
- (i) the Property is or will, on Settlement, be a residence; and
- (ii) the Buyer intends to use the Property (and does, in fact, use the Property) as the Buyer's principal place of residence immediately after Settlement.
- (d) The amount of Land Tax to be apportioned between the Seller and the Buyer under clause 14.2(c) is to be calculated according to the following formula:

$$\text{AAP} = \frac{\text{Total Assessment}}{\text{Total UE}} \times \frac{\text{UEP}}{1}$$

where:

**AAP** means the amount of Land Tax attributable to the Property;

**Total Assessment** means the amount of Land Tax assessed or charged against or otherwise payable in respect of the Land on the basis that the Site is the only land owned by the Seller as at midnight on the 30 June immediately preceding the Settlement Date;

**Total UE** means the total Unit Entitlement of all Lots shown on the Strata Plan; and

UEP means the Unit Entitlement of the Property.

#### **14.3 Utility charges**

- (a) The Seller may procure the connection of gas, electricity and telephone services to the Property and establish accounts with the Relevant Authority for such connections. If the Seller completes these connections on the Buyer's behalf, the Buyer must reimburse the Seller for any amount paid by the Seller as notified to the Buyer by the issue of the Seller's settlement statement to the Buyer at Settlement or otherwise.
- (b) If the Seller does not complete the electricity connections on the Buyer's behalf on or before Settlement, the Buyer must procure the connection of electricity to the Property and establish an account with Western Power immediately after Settlement.

#### **14.4 Strata insurance premium**

If the Seller pays any premiums in respect of any insurance required to be effected by the Strata Company, the Buyer acknowledges that the premium will be adjusted at Settlement of that part of such premium which bears the same proportion to the total premium as the Unit Entitlement of the Property bears to the total Unit Entitlement of all Lots in any way.

### **15. GST**

---

#### **15.1 Inclusive of GST**

The parties acknowledge and agree that all consideration and amounts otherwise payable under this Contract with respect to the Property have been calculated on a GST inclusive basis.

#### **15.2 Margin scheme**

The parties agree that the margin scheme referred to in Division 75 of the GST Act will apply on the supply of the real property under or in connection with this Contract (to the extent that the margin scheme is able to be applied).



### 15.3 Valuation

The Seller will determine the most appropriate method by which the valuation of the Property being supplied under this Contract is to be established having regard to the GST Act. The Seller may obtain professional valuation of the Property if the Seller deems appropriate and must obtain a valuation report that meets with the requirements of the GST Act at the Seller's cost.

### 15.4 Reimbursements

If a party reimburse any other party for any loss, cost or expense incurred by that party, the amount that must be reimbursed is the amount will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

### 15.5 Tax invoices

- (a) A recipient will not be required to make a payment for a taxable supply under or in connection with this Contract until the person making the supply (supplier) has provided the recipient a tax invoice for the supply to which the payment relates.
- (b) Clause 15.5(a) will not apply to any supply on which the GST payable was calculated using the margin scheme.

### 15.6 Adjustments

- (a) If at any time an adjustment event arises in respect of any taxable supply under this Contract:
  - (i) the supplier must provide the recipient with an adjustment note immediately upon becoming aware of the adjustment event; and
  - (ii) a corresponding adjustment note must be made in respect of any GST paid.
- (b) The supplier must make payment within ten (10) Business Days of the issuing of an adjustment note or an amended tax invoice.

### 15.7 No Merger

This clause **Error! Reference source not found.** will not merge upon completion of this Contract.

## 16. Assignment

---

- (a) The Seller may assign, novate or transfer all or part of the Seller's right, title and interest in the Land or the Property to any person being the Seller's successor in title or a person claiming or deriving its interest through the Seller's Representative and the buyer will remain bound under this Contract and not

raise any objection to such assignment, novation or transfer and the Buyer must complete the purchase of the Property in accordance with this Contract.

- (b) If the Seller wishes to assign, novate or transfer all or part of the Seller's right, title and interest in the Land or the Property then the Seller will notify the Buyer in writing of such assignment, novation or transfer. If requested by the Seller, the Buyer must promptly sign and return a deed of covenant in favour of the Seller's successors, assigns, personal representatives or transferees (as the case may be).

## 17. Display unit and marketing activities

---

- (a) The Buyer acknowledges and agrees that the Seller:
- (i) may use any Lot in the Building as a display unit for the marketing of unsold lots in the Development;
  - (ii) may use any Lot in the Building as an office for the purpose of marketing and selling of the Development; and
  - (iii) may undertake marketing activities with respect to the Development including the display of sale signs, insignia and other fixtures and fittings for marketing purposes which the Seller thinks fit.
- (b) The Buyer must not object or cause the Strata Company to object to the Seller's use of a Lot in the Building as a display unit or to the Seller's marketing activities with respect to the Development.

## 18. Restriction on sale

---

### 18.1 Definition

In this clause, **Initial Period** means the period:

- (a) commencing on the day after the date of Settlement; and
- (b) ending on the earlier of:
  - (i) the date which is eighteen months after the date on which the separate certificate of title to the Property issued from Landgate; and
  - (ii) the date that the Seller is no longer the registered proprietor of any of the Lots.

## 18.2 Restrictions

- (a) The Buyer must not affix or place or allowed to be affixed or placed any 'for sale' signs or any other signs on the exterior or interior of the Property or Common Property at any time during the Initial Period.
- (b) The Buyer must not, before Settlement, sell, assign, transfer, dispose of the Buyer's interest in this Contract or enter into an agreement to do so without first obtaining the Seller's written consent which consent may be given or withheld by the Seller in its absolute discretion.
- (c) The Buyer must not, during the Initial Period, sell, assign, transfer, dispose of the Property or any interest in the Property or enter into an agreement to do so without first obtaining the Seller's written consent which consent is not to be unreasonably be withheld.
- (d) If the Buyer is a corporation, an assignment of this Contract requiring the Seller's written consent in clauses 19.2(b) and 19.2(c) will be deemed to occur when:
  - (i) any change in the principal shareholders of any corporate Buyer (which is not a public listed company) occurs which has the effect of altering the effective control of the company; or
  - (ii) the Buyer has executed this Contract as the trustee of a trust and any change in the persons beneficially entitled (or who may become beneficially entitled) to the trust assets occurs or in the case of a unit trust any units are transferred or any units (in addition to those issued at the Contract Date) are issued.

## 19. Guarantee

---

- (a) Where the Buyer is a corporation and in consideration of the Seller entering into this Contract at the request of the Guarantor, the Guarantor:
  - (i) guarantees to the Seller:
    - (A) payment of all moneys payable by the Buyer; and
    - (B) the Buyer's performance of all other obligations,under this Contract; and
  - (ii) indemnifies the Seller against any liability, loss, damage, expense or claim incurred by the Seller arising directly or indirectly from any breach of this Contract by the Buyer.
- (b) This guarantee and indemnity is a principal obligation of the Guarantor and is not collateral to any other obligation.

- (c) The liabilities of a Guarantor are not affected by:
- (i) the granting to the Buyer or to any other person of any time, waiver, indulgence, consideration or concession or the discharge or release;
  - (ii) the Buyer's death, bankruptcy or liquidation, the Guarantor or any one of them;
  - (iii) reason of the Seller becoming a party to or bound by any compromise, assignment of property or scheme of arrangement or composition of debts or scheme or reconstruction by or relating to the Buyer, the Guarantor or any other person;
  - (iv) the Seller exercising or refraining from exercising any of the rights, powers or remedies conferred on the Seller by law or by any contract or arrangement with the Buyer, the Guarantor or any other person or any guarantee, bond, covenant, mortgage or other security; or
  - (v) the Seller obtaining a judgment against the Buyer, the Guarantor or any other person for the payment of the moneys payable under this Contract.
- (d) This guarantee and indemnity will continue notwithstanding:
- (i) the Seller has exercised any of the Seller's rights under this Contract including any right of termination;
  - (ii) the Buyer is wound up; or
  - (iii) this guarantee and indemnity is for any reason unenforceable either in whole or in part.
- (e) This guarantee and indemnity:
- (i) is of a continuing nature and will remain in effect until final discharge of the guarantee or indemnity is given by the Seller to the Guarantor;
  - (ii) may not be considered wholly or partially discharged by the payment of the whole or any part of the amount owed by the Buyer to the Seller; and
  - (iii) extends to the entire amount that is now owed or that may become owing at any time in the future to the Seller by the Buyer pursuant to or contemplated by this Contract including any interest, costs or charges payable to the Seller under this Contract.
- (f) If any payment made to the Seller by or on the Buyer's behalf by the Guarantor is subsequently avoided by any statutory provision or otherwise:
- (i) that payment is to be treated as not discharging the Guarantor's liability for the amount of that payment; and

- (ii) the Guarantor and the Seller will be restored to the position in which each would have been and will be entitled to exercise all rights which each would have had if that payment had not been made.
- (g) The Seller can proceed to recover the amount claimed as a debt or damages from the Guarantor without having instituted legal proceedings against the Buyer and without first exhausting the Seller's remedies against the Buyer.
- (h) It is an essential term of this Contract that the Guarantor signs this Contract.

## 20. Trustee provisions

---

- (a) This clause will apply if the Buyer enters into this Contract as trustee of any trust (Trust).
- (b) The Buyer covenants with the Seller that:
  - (i) the Buyer has full, complete and valid authority pursuant to the Trust and the document evidencing the establishment and terms of the Trust (Trust Deed) to enter into this Contract;
  - (ii) the Buyer is unconditionally liable both in its own right and as trustee of the Trust for the performance of all covenants and agreements on the Buyer's part contained in this Contract;
  - (iii) the Buyer is entering into this Contract and the transactions evidenced by this Contract as part of the due and proper administration of the Trust and for the benefit of all of the beneficiaries or unit holders of the Trust.
- (c) The Buyer acknowledges that:
  - (i) it is the sole trustee of the Trust;
  - (ii) the powers under the Trust Deed have not been revoked;
  - (iii) it has not been removed from office as trustee of the Trust and has not ceased to act as trustee of the Trust;
  - (iv) no property of the Trust has been resettled or transferred to any other person;
  - (v) the Trust has not been terminated; and
  - (vi) any event or date for the vesting of the property of the Trust has occurred.
- (d) The Seller's rights of indemnity which the Buyer has against the trust assets or the beneficiaries or unit holders of the Trust and those rights will not be limited.

## 21. Agent

---

- (a) This clause will apply if the Buyer enters into this Contract as an agent for another person (**Beneficiary**).
- (b) The Buyer covenants with the Seller that:
  - (i) the Buyer has full, complete and valid authority (express or implied) from the **Beneficiary** to enter into this Contract and the authority provided to the Buyer has not been revoked; and
  - (ii) the Buyer is unconditionally liable both in its own right and as agent for the **Beneficiary** for the performance of all covenants and agreements on the Buyer's part contained in this Contract.

## 22. Home indemnity insurance

---

The Buyer acknowledges and agrees that:

- (a) the Seller has given to the Buyer a Notice of Exemption;
- (b) a copy of the Notice of Exemption is attached as Annexure D to this Contract;
- (c) the inclusion of the Notice of Exemption in this Contract constitutes delivery of the Notice of Exemption to the Buyer; and
- (d) the Buyer does not have right to rescind this Contract under *Home Building Contracts (Home Indemnity Insurance Exemptions) Regulations 2002 (WA)* or, to the extent that it does have such a right, that right is waived.

## 23. Foreign Investment Review Board approval

---

### 23.1 Application by Seller

- (a) The Seller may submit a 'Form D2 – Application by vendor/developers for prior approval to sell residential dwellings in a new complex to foreign persons' (**FIRB Pre-Approval**) to the Treasurer for pre-approval of the sale any Lots in the Development to a Foreign Person.
- (b) If, at the Contract Date, the Seller confirms to the Buyer that it has been granted the FIRB Pre-Approval, then clause 23.2 does not apply to this Contract.

### 23.2 Application by Buyer

- (a) If the Buyer is denoted in the Details as being a Foreign Person, then in addition to the Buyer's other obligations under this Contract, the following conditions in this clause will apply.

- (b) This Contract is subject to the Buyer obtaining the consent of the Treasurer to the Buyer's purchase of the Property (Treasurer's Consent) within 60 days after the Contract Date (Approval Date).
- (c) The Buyer must take all reasonable steps in order to obtain the Treasurer's Consent .
- (d) The Buyer must give written notice to the Seller by the Approval Date that either:
  - (i) the Treasurer's Consent has been obtained; or
  - (ii) the Treasurer's Consent has not been obtained and that this Contract is terminated.
- (e) Notwithstanding any other provision of this Contract, the Settlement Date is the later of the date determined as the Settlement Date under Item 7 or the date which is twenty-one (21) days after the Buyer gives notice to the Seller that the Treasurer's Consent has been obtained.
- (f) If the Buyer does not give notice in accordance with 23.2(d) by 6.00pm on the Approval Date, the Seller may by notice terminate this Contract (at any time before notice under 23.2(d) is given); and
- (g) The condition in clause 23.2(b):
  - (i) is for the benefit of both parties; and
  - (ii) may not be waived.
- (h) If:
  - (i) the condition in clause 23.2(b) is not satisfied within the period specified in clause 23.2(b); or
  - (ii) the Treasurer's Consent is denied,  
then this Contract will terminate automatically without notice and, subject to the Seller's rights in respect of any antecedent breach of the provisions of this Contract:
    - (iii) the Seller must repay all money paid by the Buyer to the Seller under this Contract; and
    - (iv) upon that repayment, neither the Buyer nor the Seller will have any claim against the other.

## 24. Costs and transfer duty

---

### 24.1 Legal and other cost

Subject to clause 9.4, each party must pay its own legal and other costs and expenses in connection with this Contract and Settlement.

### 24.2 Transfer duty and registration fee

- (a) The Buyer must pay all transfer duty on this Contract and the Transfer.
- (b) The Buyer must pay the registration fee payable on the Transfer.

## 25. Privacy notice

---

- (a) The Buyer consents to:
  - (i) the collection of Personal Information;
  - (ii) the Seller's use and disclosure of Personal Information for the purposes of enabling the Seller to comply with the Seller's obligations under, associated with and arising in connection with this Contract including any obligations to any third parties such as the Seller's financiers;
  - (iii) the disclosure to and use by third party contractors and service providers engaged by the Seller of the Personal Information for the purpose of:
    - (A) enabling the Seller to comply with and fulfil the Seller's obligations under or arising under or in connection with this Contract; and
    - (B) procuring the provision to the Buyer of products and services contemplated by this Contract; and
  - (iv) the Seller's use and disclosure by the Seller of Personal Information for the purposes of enabling the Seller to enforce the Seller's rights under this Contract.
- (b) The Buyer acknowledges that the Personal Information is held by the Seller subject to the requirements of the Privacy Act and accordingly the Buyer may request access to Personal Information at any time.



## 26. Acknowledgement

---

In addition to the acknowledgements in clause 4, the Buyer acknowledges the following:

### 26.1 Strata titles

- (a) The Buyer acknowledges that the Property is part of a proposed strata scheme and that it has received the Disclosure Statement annexed to this Contract.
- (b) The Buyer acknowledges and confirms that it has read and understood the information contained in this Contract and the Disclosure Statement prior to entering into this Contract and that it agrees to be bound by all matters set out in this Contract and the Disclosure Statement.

### 26.2 Floor plans

- (a) The Buyer acknowledges that the Floor Plans are simplified versions and a copy of the detailed version of the floor plans is at the Seller's office.
- (b) The Buyer acknowledges that the simplified versions of the Floor Plans:
  - (i) are not to scale;
  - (ii) may be varied to coordinate with other building elements; and
  - (iii) where items and furniture are depicted in the Floor Plans such items and furniture are not included as part of the sale of the Property.
- (c) The detailed version of the floor plans will prevail if there is any inconsistency between the detailed version and the simplified version of the floor plans.
- (d) The Buyer agrees that it is not and will not be materially prejudiced by any of the matters specified in this clause 26.2.

### 26.3 Landscaping

- (a) The Buyer acknowledges that the Seller may provide landscaping in the external areas of the Property, including any balconies, courtyards, verandas, and/or similar areas of a type, nature and size, and in locations at the absolute discretion of the Seller.
- (b) The Buyer:
  - (i) agrees that it is not and will not be materially prejudiced by any of the matters specified in clause 26.3(a); and
  - (ii) acknowledges that nothing in clause 26.3(a) will provide grounds for the Buyer to terminate this Contract, delay Settlement or claim a reduction in the Purchase Price.

#### 26.4 Own enquiries

The Buyer acknowledges and agrees that it relies entirely upon its own enquiries relating to:

- (a) the fitness or suitability of the Property for any particular purpose;
- (b) its obligations and rights under this Contract; and
- (c) any financial return, income and investment advice despite:
  - (i) any forecasts or feasibilities; and
  - (ii) any information relating directly or indirectly to the Buyer's purchase of the Property as an investment or on any basis whatsoever,provided to the Buyer by or on behalf of the Seller.

#### 26.5 No compensation

The Buyer acknowledges and agrees that:

- (a) the Property is to the best of the Seller's knowledge and belief correctly described in every respect; and
- (b) any error or mis-statement, omission or mis-description which may be discovered shall not annul the sale or entitle the Buyer to be discharged from its purchase of the Property nor shall any claim for compensation be made in respect thereof.

#### 26.6 No requisitions on title

Nothing in this Contract will entitle the Buyer to give to the Seller a written statement of objections to or requisitions on the title to the Property.

### 27. Notice

---

#### 27.1 Requirements

All notices, requests, demands, consents, approvals, or other communications under this Contract (Notice) to, by or from a party must be:

- (a) in writing;
- (b) addressed to a party in accordance with its details set out in the Details or as otherwise specified by that party by Notice (Notified Contact Details); and
- (c) signed by the sending party or a person duly authorised by the sending party.

## **27.2 How a Notice must be given**

In addition to any other method of serving Notices permitted by statute, a Notice must be given by one of the methods set out in clause 27.3.

## **27.3 When Notices considered given and received**

Subject to clause 27.5, a Notice takes effect when received (or such later time as specified in it) and a Notice is regarded as being given by the sending party and received by the receiving party:

- (a) if delivered by hand to the address set out in the Notified Contact Details, when delivered to that address;
- (b) if sent by pre-paid post to the address set out in the Notified Contact Details, at 9:00 am on the second Business Day (or the fifth Business Day, if posted to or from a place outside Australia) after the date of posting; or
- (c) if sent by facsimile to the facsimile number set out in the Notified Contact Details, at the time indicated by the sending party's transmission equipment as the time that the facsimile was sent in its entirety, unless the receiving party informs the sending party that the Notice is illegible or incomplete within four business hours (being a period of time between 9:00 am and 5:00 pm on a Business Day) of it being transmitted.;

## **27.4 No email or other electronic communication of Notices**

Email or other electronic means of communication other than by facsimile as permitted under clause 27.3 must not be used to give Notices under this Contract.

## **27.5 Time of delivery and receipt**

If pursuant to clause 27.3 a Notice would be regarded as given and received on a day that is not a Business Day or after 5:00 pm on a Business Day, then the Notice will be deemed as given and received at 9:00 am on the next Business Day.

## **27.6 General**

A party may change its contact details as set out in the Details by giving a Notice to each other party.

## **28. Miscellaneous provisions**

### **28.1 Entire agreement**

This Contract constitutes the entire agreement between the parties and contains all of the representations, warranties, covenants and agreements of the parties in relation to the subject matter. There are no oral statements, representations, undertakings,

covenants or agreements given or made by the Seller or the Seller's Representative or otherwise existing between the parties except as are contained in this Contract.

**28.2 Waiver or variation**

A provision of, or a right created under, this Contract may or may not be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by all parties.

**28.3 Proper law**

This Contract is to be governed by the laws of the State of Western Australia.

**28.4 Survival of covenants**

Any warranty or covenant given by a party to this Contract will not merge on completion of the matters referred to or contemplated by this Contract but will survive completion of the matters referred to or contemplated by this Contract even if any party has waived any right under this Contract or failed to take proceedings for any breach.

**28.5 No moratorium**

Unless application is mandatory by law, a statute, proclamation, order, regulation or moratorium, present or future, is not to apply to this Contract or these Conditions so as to abrogate, extinguish, impair, diminish, fetter, delay or otherwise affect prejudicially rights, privileges, remedies or discretion given or accruing to a party.

**28.6 Unenforceability**

If a condition, covenant or stipulation of these Conditions or of this Contract or the application of them to a person or circumstances is, or becomes, invalid or unenforceable the remaining covenants, conditions and stipulations are not to be affected by the invalidity or enforceability, and each covenant, condition and stipulation of these Conditions and this Contract will be valid and enforceable to the fullest extent permitted by law.

**28.7 Non enforcement or rights**

The failure on the Seller's part at any time to enforce any of the Seller's rights or to exercise any option or discretion in accordance with this Contract will not be construed as a waiver of the provisions of this Contract or prejudice the Seller's exercising such rights or the exercise of any such option or discretion.

**28.8 Further assurances**

The parties agree to sign, execute and complete all further assurances and documents and to do all things reasonably required to complete the matters set out in, or contemplated by, these Conditions and this Contract.

**28.9 Counterparts**

This Contract may consist of a number of counterparts. These counterparts taken together constitute one instrument.

**29. Special conditions**

---

- (a) The Special Conditions apply to this Contract.
- (b) In the event of any inconsistency between the Special Conditions and the terms of these Conditions the Special Conditions will prevail.

The Buyer offers to purchase the Property on the terms and conditions of this Contract

Date: 21.11.16

**Buyer's Signature(s)**

If the Buyer is an individual:

Signed by the Buyer in the presence of:

*M. M. Jones*  
Signature of witness

Matthew Mark Jones  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

*[Signature]*  
Signature of the Buyer

*[Handwritten initials]*

Signed by the Buyer in the presence of:

*M. M. Jones*  
Signature of witness

Matthew Mark Jones  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

*[Signature]*  
Signature of the Buyer

*[Handwritten initials]*

Signed by the Buyer in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

\_\_\_\_\_  
Signature of the Buyer

Signed by the Buyer in the presence of:

\_\_\_\_\_  
Signature of witness

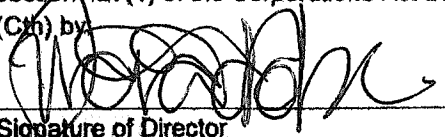
\_\_\_\_\_  
Signature of the Buyer

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

If the Buyer is a company:

Executed by the Buyer in accordance with  
section 127(1) of the Corporations Act 2001  
(Cth) by:

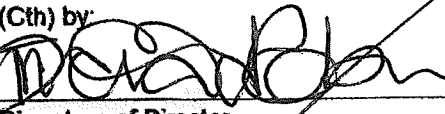
  
\_\_\_\_\_  
Signature of Director

Tricia Anne Robins  
\_\_\_\_\_  
Full name (print)

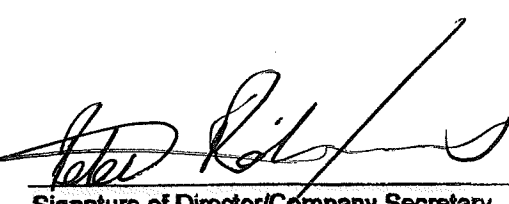
  
\_\_\_\_\_  
Signature of Director/Company Secretary

Peter John Robens  
\_\_\_\_\_  
Full name (print)

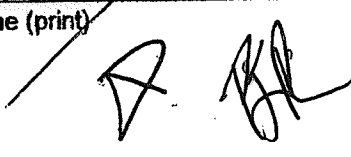
Executed by the Buyer in accordance with  
section 127(1) of the Corporations Act 2001  
(Cth) by:

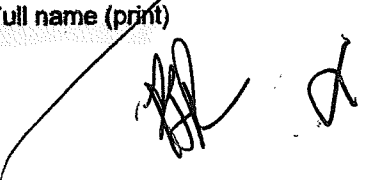
  
\_\_\_\_\_  
Signature of Director

Tricia Anne Robins  
\_\_\_\_\_  
Full name (print)

  
\_\_\_\_\_  
Signature of Director/Company Secretary

Peter John Robens  
\_\_\_\_\_  
Full name (print)





**Guarantor's signature(s)**

Signed by the Guarantor in the presence  
of:

*M. J. Sear*  
Signature of witness

*[Handwritten Signature]*  
Signature of the Guarantor

Matthew Mark Sims  
Full name of witness (print)

1-136 Stirling Hwy Nedlands  
Address of witness (print)

Signed by the Guarantor in the presence  
of:

*M. M. Sims*  
Signature of witness

*[Handwritten Signature]*  
Signature of the Guarantor

Matthew Mark Sims  
Full name of witness (print)

1-136 Stirling Hwy Nedlands  
Address of witness (print)

Signed by the Guarantor in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of the Guarantor

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

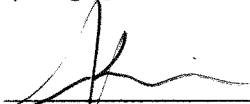


The Seller accepts the Buyer's offer to purchase the Property on the terms and conditions of this Contract

Date: 23 December 2016

**Seller's signature**

Executed for and on behalf of Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust by its attorneys being two Category A attorneys\*/a Category A attorney and a category B attorney\* under power of attorney dated 14 October 2015 in the presence of:



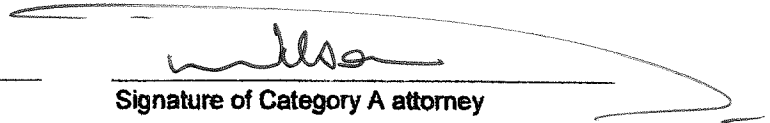
Signature of witness

NICOLE ERIN KORN

Full name of witness (print)

HWL Ebsworth Lawyers  
Level 11, Westralia Plaza  
167 St Georges Terrace  
Perth WA 6000

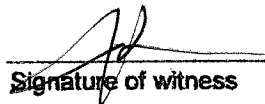
Address of witness (print)



Signature of Category A attorney

PAUL MATTHEW WILSON

Name of Category A attorney (print)



Signature of witness

NICOLE ERIN KORN

Full name of witness (print)

HWL Ebsworth Lawyers  
Level 11, Westralia Plaza  
167 St Georges Terrace  
Perth WA 6000

Address of witness (print)



Signature of Category A attorney\*/Category B attorney\*

MELANIE IRENE WATTERS

Name of Category A attorney\*/Category B attorney\* (print)

**Executed by Open Corporation Funds  
Management Limited ACN 154 921 730 as  
trustee for the Open Corp Port Coogee  
Unit Trust in accordance with  
section 127(1) of the *Corporations Act 2001*  
(Cth) by:**

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Full name (print)

\_\_\_\_\_  
Full name (print)

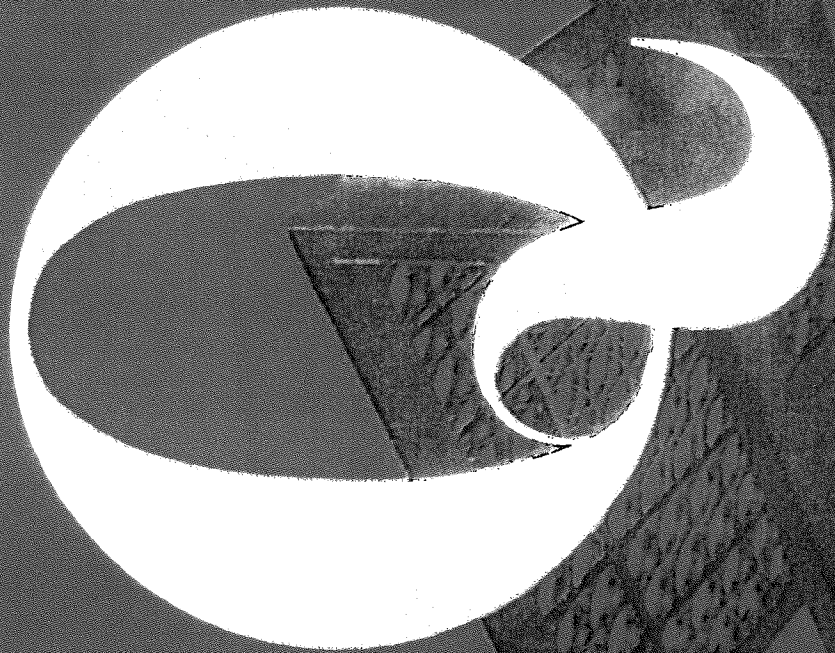
***This page has been intentionally left blank***

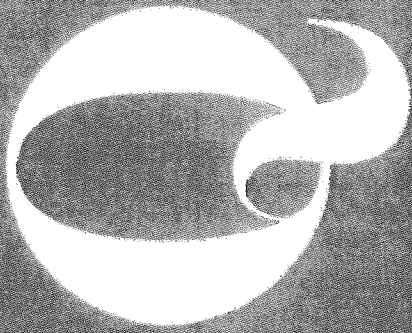
## Annexure A Floor Plans

### Annexure to Contract of Sale – Quayhouse

*This page has been intentionally left blank*

BR





two bedroom  
two bathroom  
two car space  
apartment

Type G-01

Living Area  
Bedroom  
Bathroom  
Total area: 151sq

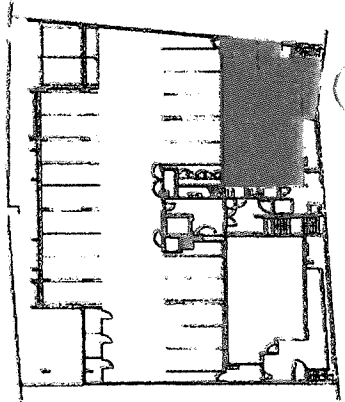
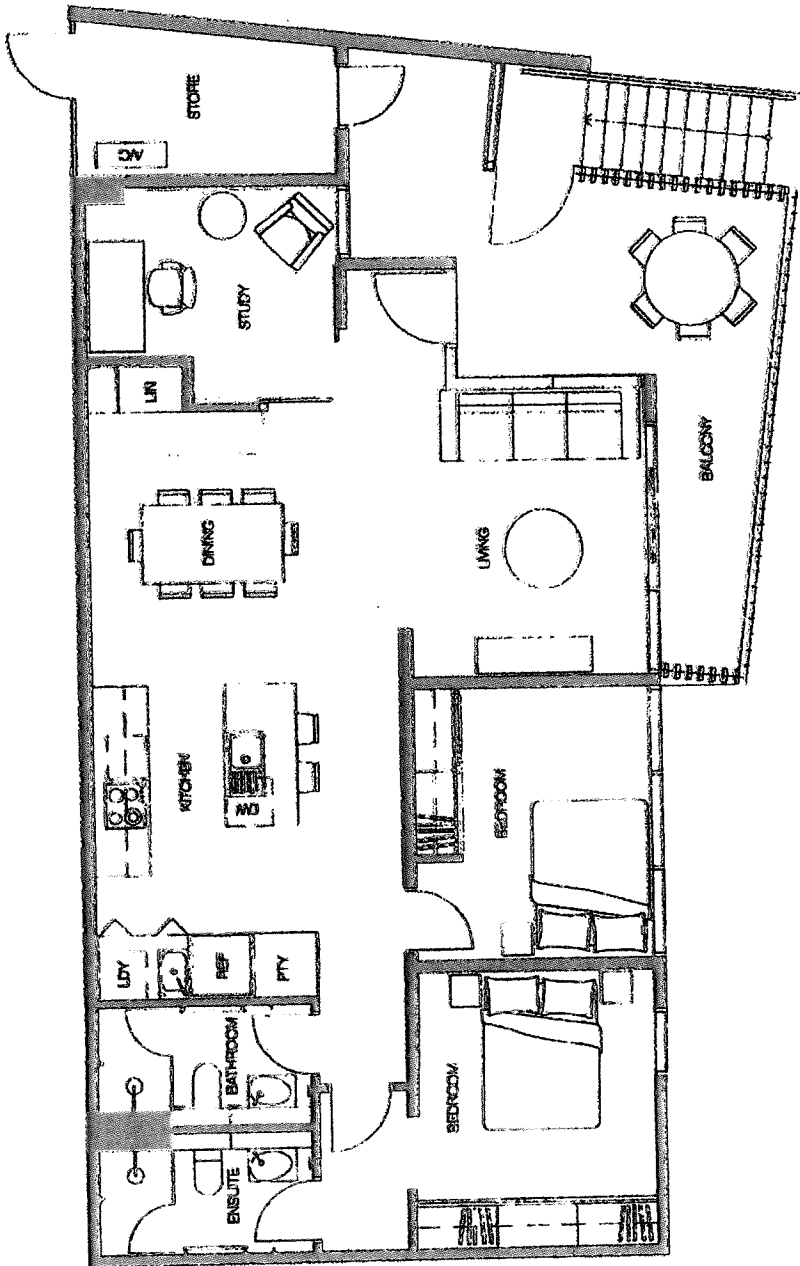
Quayhouse

Specialist Development

1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1226/1227/1228/1229/1230/1231/1232/1233/1234/1235/1236/1237/1238/1239/1240/1241/1242/1243/1244/1245/1246/1247/1248/1249/1250/1251/1252/1253/1254/1255/1256/1257/1258/1259/1260/1261/1262/1263/1264/1265/1266/1267/1268/1269/1270/1271/1272/1273/1274/1275/1276/1277/1278/1279/1280/1281/1282/1283/1284/1285/1286/1287/1288/1289/1290/1291/1292/1293/1294/1295/1296/1297/1298/1299/1300/1301/1302/1303/1304/1305/1306/1307/1308/1309/1310/1311/1312/1313/1314/1315/1316/1317/1318/1319/1320/1321/1322/1323/1324/1325/1326/1327/1328/1329/1330/1331/1332/1333/1334/1335/1336/1337/1338/1339/1340/1341/1342/1343/1344/1345/1346/1347/1348/1349/1350/1351/1352/1353/1354/1355/1356/1357/1358/1359/1360/1361/1362/1363/1364/1365/1366/1367/1368/1369/1370/1371/1372/1373/1374/1375/1376/1377/1378/1379/1380/1381/1382/1383/1384/1385/1386/1387/1388/1389/1390/1391/1392/1393/1394/1395/1396/1397/1398/1399/1400/1401/1402/1403/1404/1405/1406/1407/1408/1409/1410/1411/1412/1413/1414/1415/1416/1417/1418/1419/1420/1421/1422/1423/1424/1425/1426/1427/1428/1429/1430/1431/1432/1433/1434/1435/1436/1437/1438/1439/1440/1441/1442/1443/1444/1445/1446/1447/1448/1449/1450/1451/1452/1453/1454/1455/1456/1457/1458/1459/1460/1461/1462/1463/1464/1465/1466/1467/1468/1469/1470/1471/1472/1473/1474/1475/1476/1477/1478/1479/1480/1481/1482/1483/1484/1485/1486/1487/1488/1489/1490/1491/1492/1493/1494/1495/1496/1497/1498/1499/1500/1501/1502/1503/1504/1505/1506/1507/1508/1509/1510/1511/1512/1513/1514/1515/1516/1517/1518/1519/1520/1521/1522/1523/1524/1525/1526/1527/1528/1529/1530/1531/1532/1533/1534/1535/1536/1537/1538/1539/1540/1541/1542/1543/1544/1545/1546/1547/1548/1549/1550/1551/1552/1553/1554/1555/1556/1557/1558/1559/1560/1561/1562/1563/1564/1565/1566/1567/1568/1569/1570/1571/1572/1573/1574/1575/1576/1577/1578/1579/1580/1581/1582/1583/1584/1585/1586/1587/1588/1589/1590/1591/1592/1593/1594/1595/1596/1597/1598/1599/1600/1601/1602/1603/1604/1605/1606/1607/1608/1609/1610/1611/1612/1613/1614/1615/1616/1617/1618/1619/1620/1621/1622/1623/1624/1625/1626/1627/1628/1629/1630/1631/1632/1633/1634/1635/1636/1637/1638/1639/1640/1641/1642/1643/1644/1645/1646/1647/1648/1649/1650/1651/1652/1653/1654/1655/1656/1657/1658/1659/1660/1661/1662/1663/1664/1665/1666/1667/1668/1669/1670/1671/1672/1673/1674/1675/1676/1677/1678/1679/1680/1681/1682/1683/1684/1685/1686/1687/1688/1689/1690/1691/1692/1693/1694/1695/1696/1697/1698/1699/1700/1701/1702/1703/1704/1705/1706/1707/1708/1709/1710/1711/1712/1713/1714/1715/1716/1717/1718/1719/1720/1721/1722/1723/1724/1725/1726/1727/1728/1729/1730/1731/1732/1733/1734/1735/1736/1737/1738/1739/1740/1741/1742/1743/1744/1745/1746/1747/1748/1749/1750/1751/1752/1753/1754/1755/1756/1757/1758/1759/1760/1761/1762/1763/1764/1765/1766/1767/1768/1769/1770/1771/1772/1773/1774/1775/1776/1777/1778/1779/1780/1781/1782/1783/1784/1785/1786/1787/1788/1789/1790/1791/1792/1793/1794/1795/1796/1797/1798/1799/1800/1801/1802/1803/1804/1805/1806/1807/1808/1809/1810/1811/1812/1813/1814/1815/1816/1817/1818/1819/1820/1821/1822/1823/1824/1825/1826/1827/1828/1829/1830/1831/1832/1833/1834/1835/1836/1837/1838/1839/1840/1841/1842/1843/1844/1845/1846/1847/1848/1849/1850/1851/1852/1853/1854/1855/1856/1857/1858/1859/1860/1861/1862/1863/1864/1865/1866/1867/1868/1869/1870/1871/1872/1873/1874/1875/1876/1877/1878/1879/1880/1881/1882/1883/1884/1885/1886/1887/1888/1889/1890/1891/1892/1893/1894/1895/1896/1897/1898/1899/1900/1901/1902/1903/1904/1905/1906/1907/1908/1909/1910/1911/1912/1913/1914/1915/1916/1917/1918/1919/1920/1921/1922/1923/1924/1925/1926/1927/1928/1929/1930/1931/1932/1933/1934/1935/1936/1937/1938/1939/1940/1941/1942/1943/1944/1945/1946/1947/1948/1949/1950/1951/1952/1953/1954/1955/1956/1957/1958/1959/1960/1961/1962/1963/1964/1965/1966/1967/1968/1969/1970/1971/1972/1973/1974/1975/1976/1977/1978/1979/1980/1981/1982/1983/1984/1985/1986/1987/1988/1989/1990/1991/1992/1993/1994/1995/1996/1997/1998/1999/2000

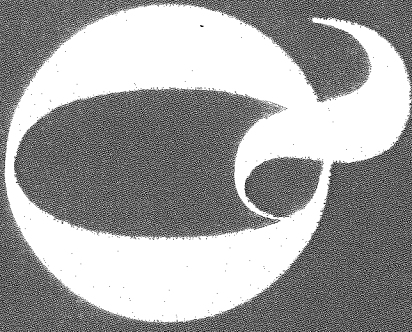
quayhouse.com.au

OpenCorp.



*Handwritten signature/initials.*

- ITEM CODES
- REF. REFRIGERATOR
- CUPB. CUPBOARD
- CYB. CUPBOARD
- REF. REFRIGERATOR
- STOVE. STOVE
- SINK. SINK
- WASHER. WASHER



two bedroom  
two bathroom  
two car space  
apartment

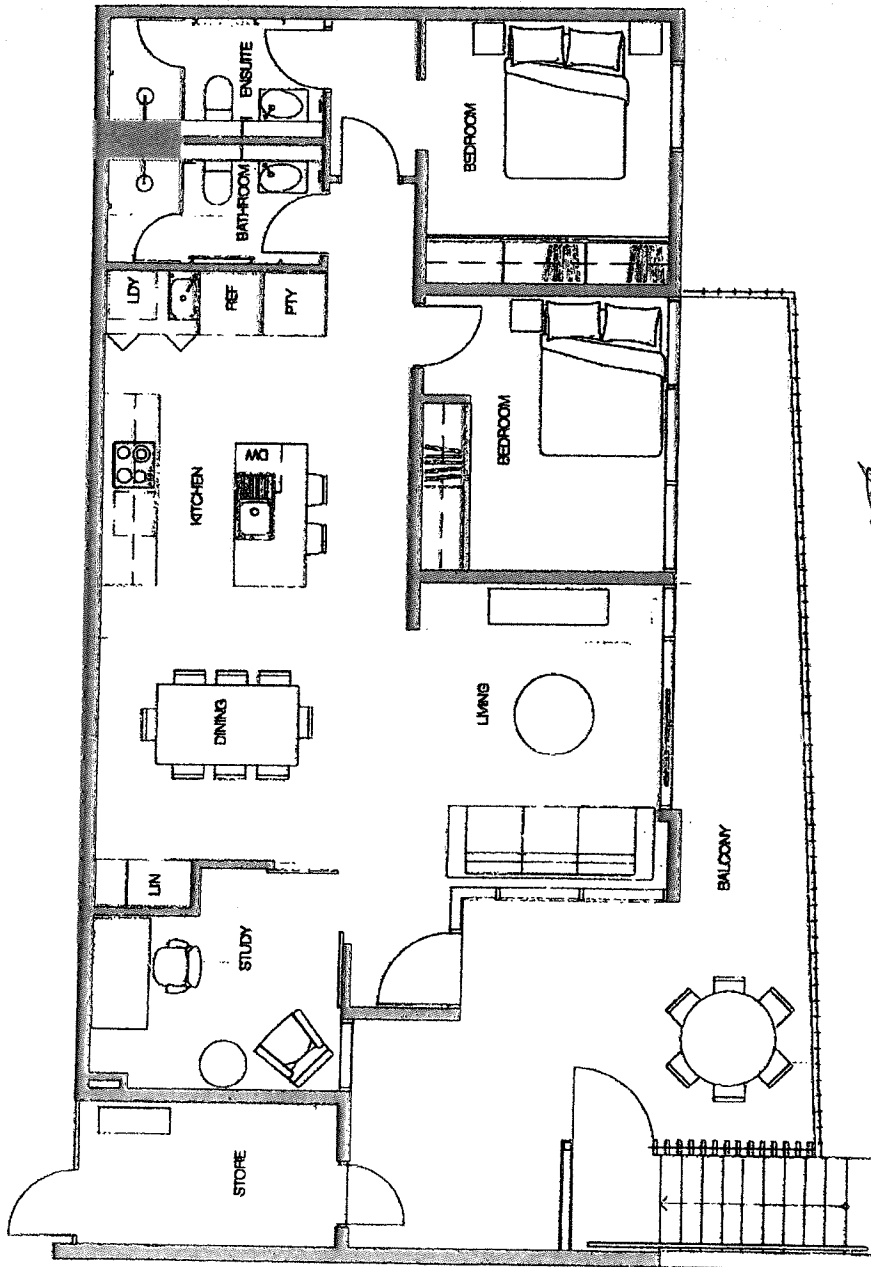
Type G-02

Unit 101/102/103/104  
Baker Street/102/103/104  
Parramatta NSW 2150

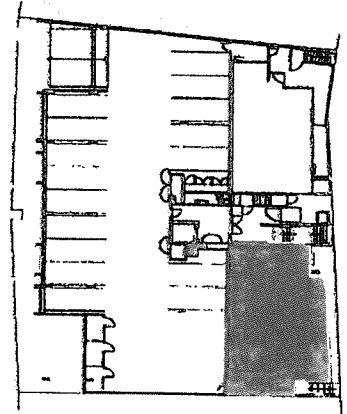
**Quayhouse**  
Smart Apartments

quayhouse.com.au

OpenCorp.

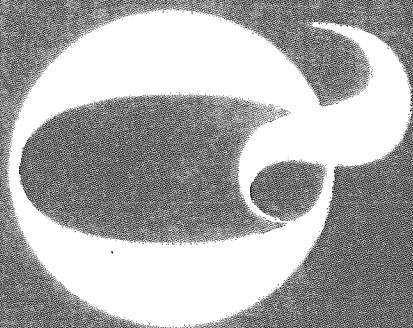


*Handwritten signature*



ITEM CODES  
 101 - 102/103/104  
 101 - 102/103/104  
 101 - 102/103/104  
 101 - 102/103/104  
 101 - 102/103/104





two bedroom  
two bathroom  
one car space  
apartment

Type 1-01

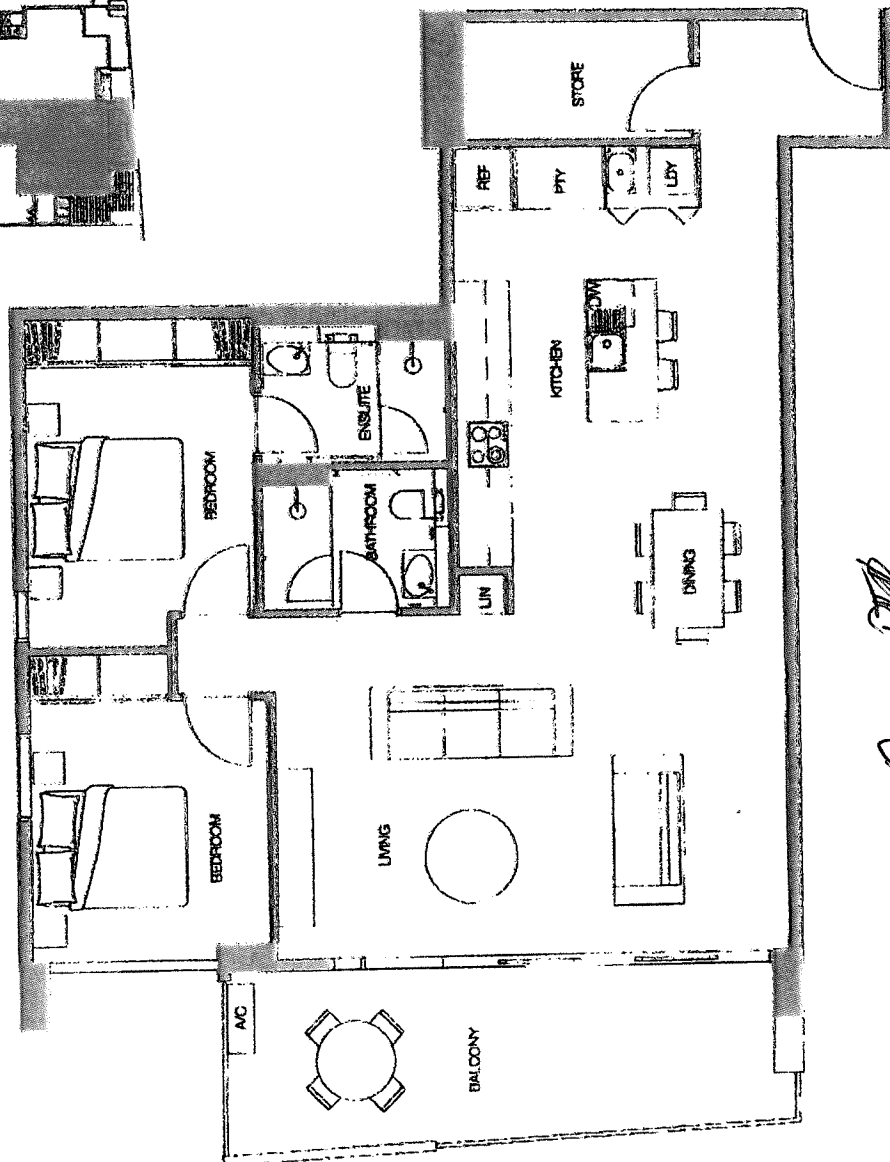
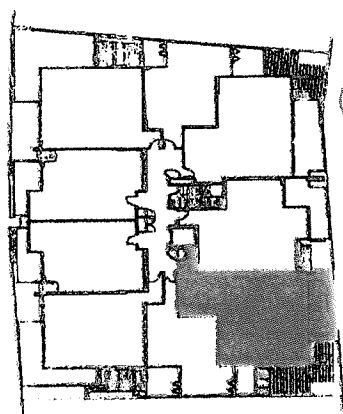
Unit area: 97sqm  
Bathroom: 2  
Bedrooms: 2  
Floor area: 12sqm

Quayhouse

brisbane.qh.com.au

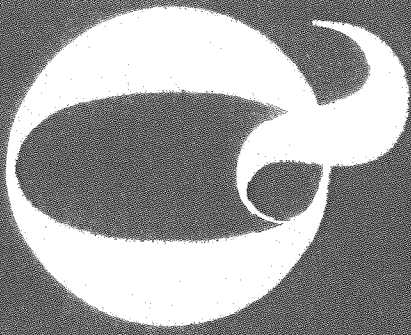
quayhouse.com.au

OpenCorp



*[Handwritten signature]*

ITEM CODES  
 1000 - 1000  
 1001 - 1001  
 1002 - 1002  
 1003 - 1003  
 1004 - 1004  
 1005 - 1005  
 1006 - 1006  
 1007 - 1007  
 1008 - 1008  
 1009 - 1009  
 1010 - 1010



one bedroom  
one bathroom  
one car space  
apartment

Type 1-02

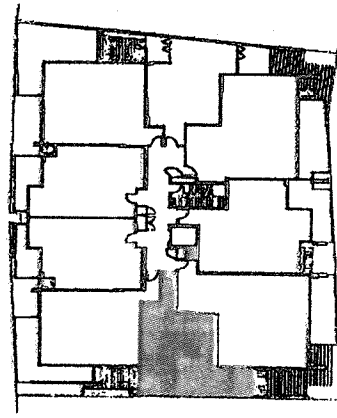
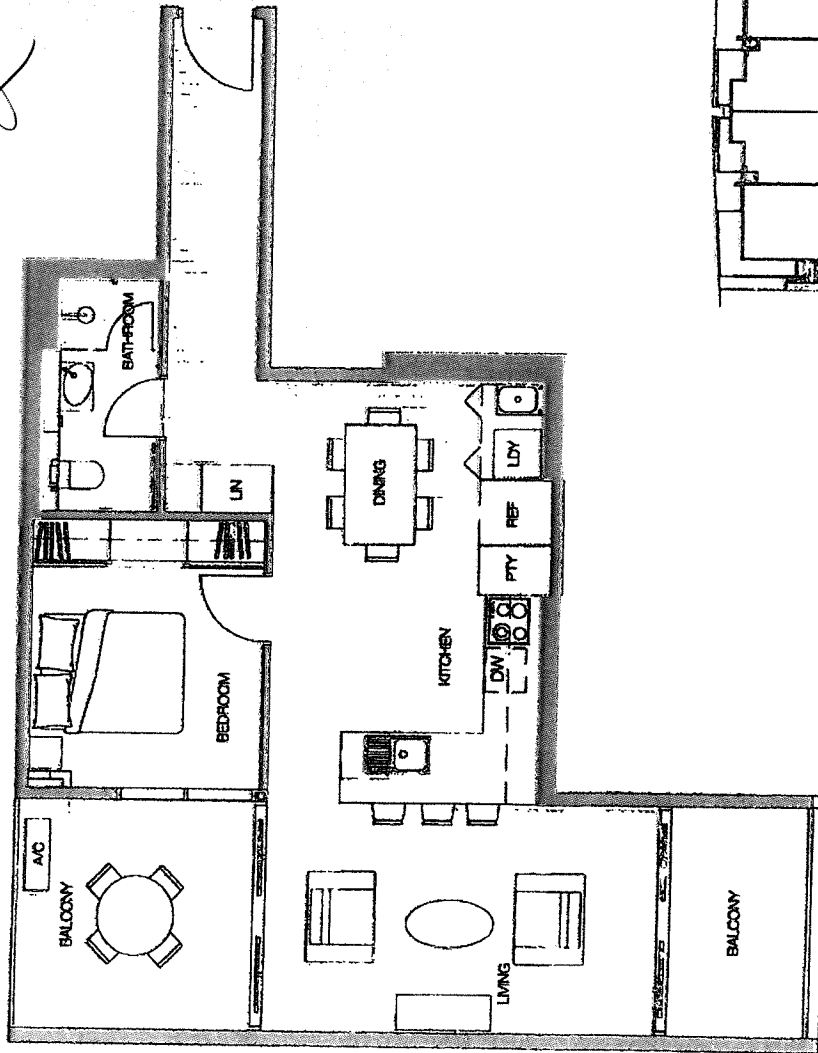
Unit 102  
Quayhouse  
Fitzroy East

**Quayhouse**  
Seaside living

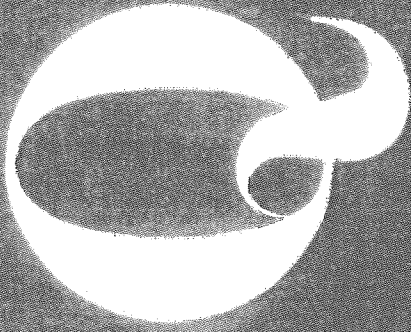
[quayhouse.com.au](http://quayhouse.com.au)



*2*  
*DR*



ITEM CODES  
REF REFRIGERATOR  
LTV LINEN  
LTV LINEN  
LTV LINEN  
LTV LINEN



two bedroom  
two bathroom  
one car space  
apartment

Type 1-03

Unit area: 107m<sup>2</sup>  
Balcony area: 22m<sup>2</sup>  
Total area: 129m<sup>2</sup>

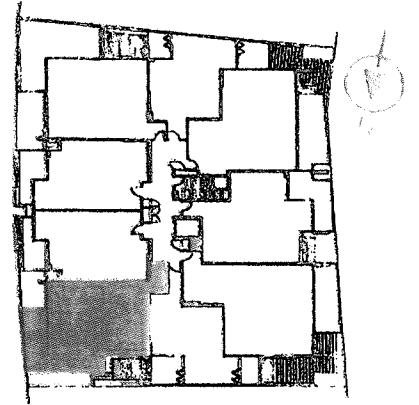
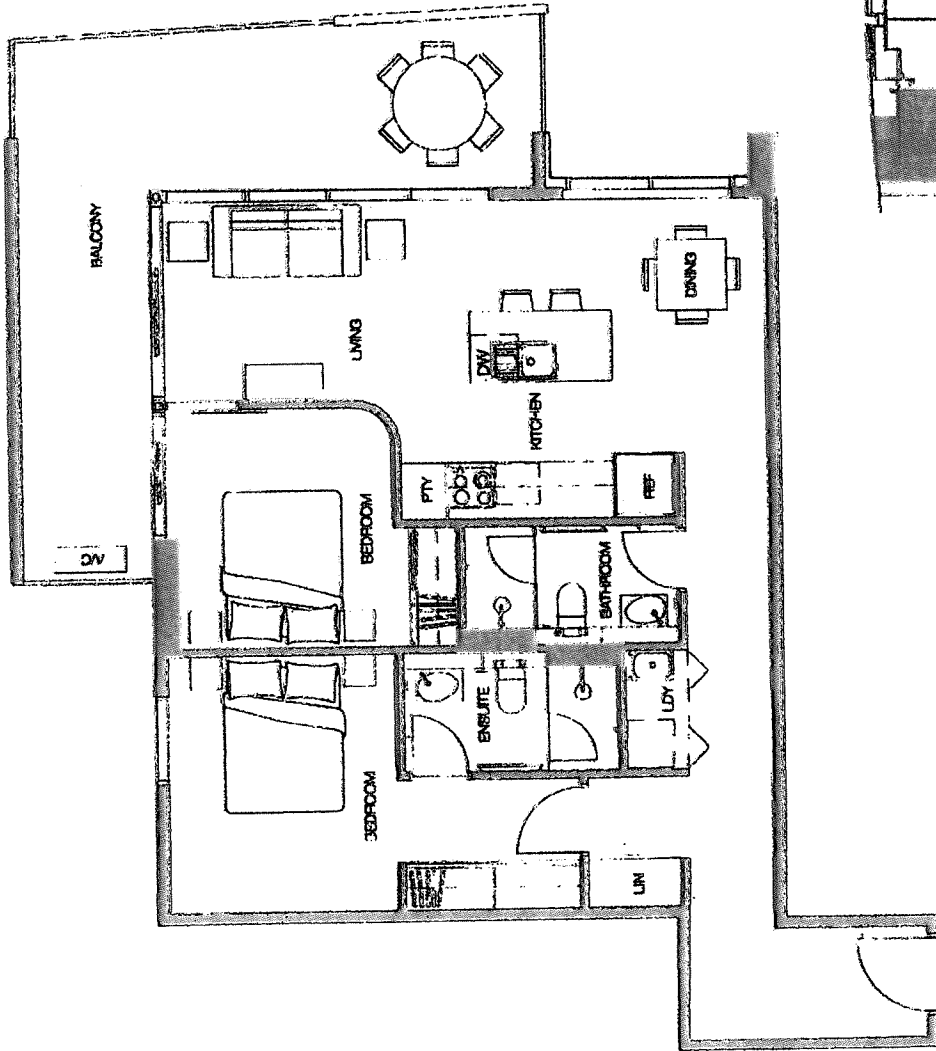
Quayhouse

Specialist Apartment

1000 Bay Street, Melbourne VIC 3004

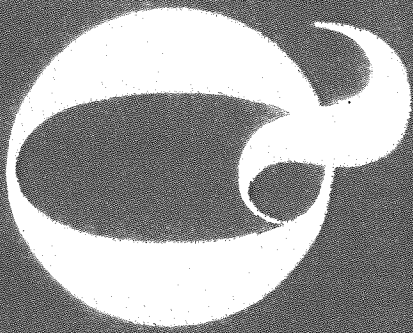
quayhouse.com.au

OpenCorp.



*DR*

ITEM CODE: 1000  
TYPE: 1-03  
TOTAL AREA: 129m<sup>2</sup>  
BALCONY AREA: 22m<sup>2</sup>  
UNIT AREA: 107m<sup>2</sup>



two bedroom  
two bathroom  
one car space  
apartment

Type 1-04

Unit 104, Quayhouse,  
Esplanade, Darwin  
NT 08 00000000

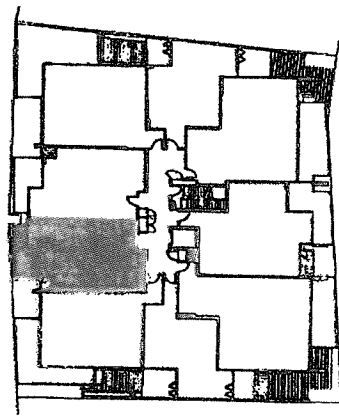
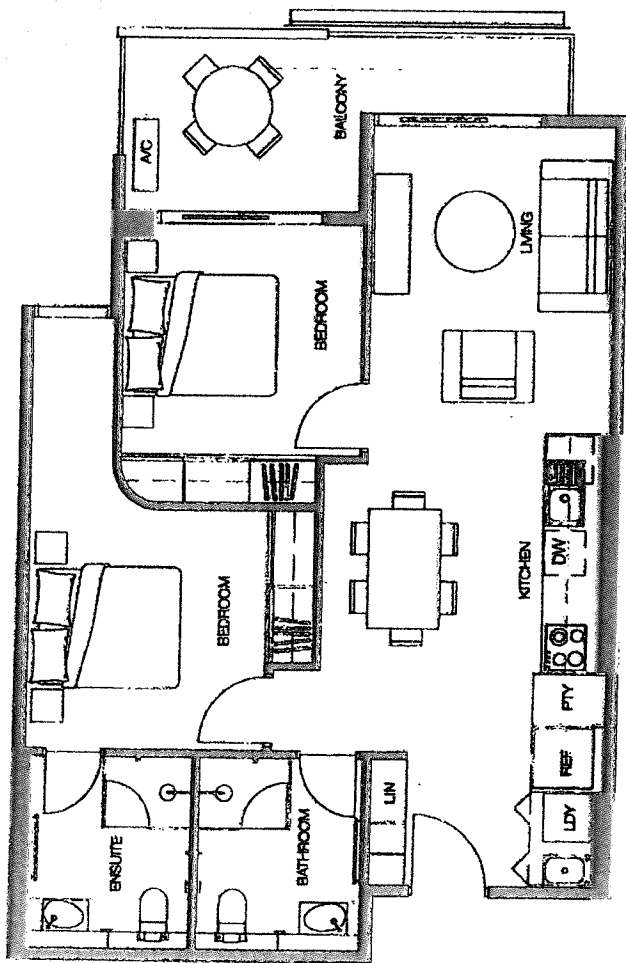
Quayhouse

See floor plan for details

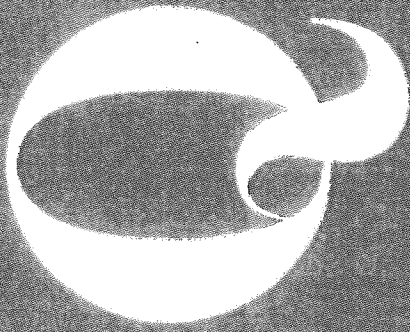
quayhouse.com.au

OpenCorp.

*R* *DR*



ITEM CODES  
 WPT - REFRIGERATOR  
 WPT - WASTER  
 WPT - WASHING MACHINE  
 WPT - STOVE  
 WPT - OVEN  
 WPT - DISHWASHER



two bedroom  
two bathroom  
one car space  
apartment

Type 1-05

Unit area: 120.0m<sup>2</sup>  
Balcony area: 11.0m<sup>2</sup>  
Total area: 131.0m<sup>2</sup>

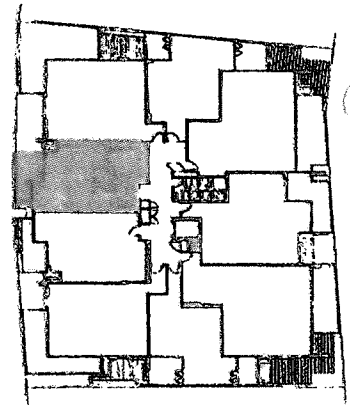
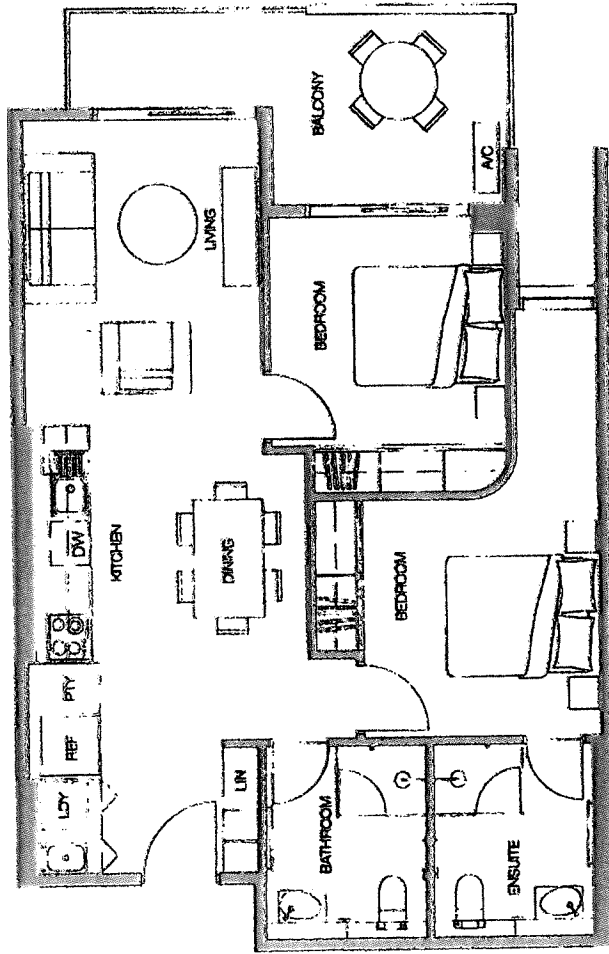
**Quayhouse**

Real Estate

100 Years of Excellence

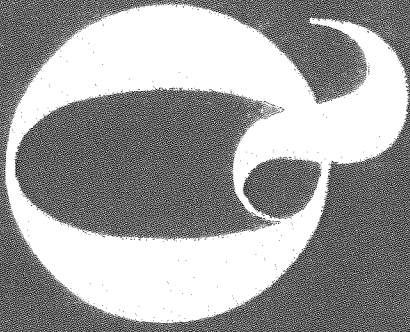
quayhouse.com.au

OpenCorp.



*Handwritten signature or initials.*

ITEM CODES  
 N - NORTH  
 S - SOUTH  
 E - EAST  
 W - WEST  
 M - MEASUREMENT



two bedroom  
two bathroom  
one car space  
apartment

Type 1-06

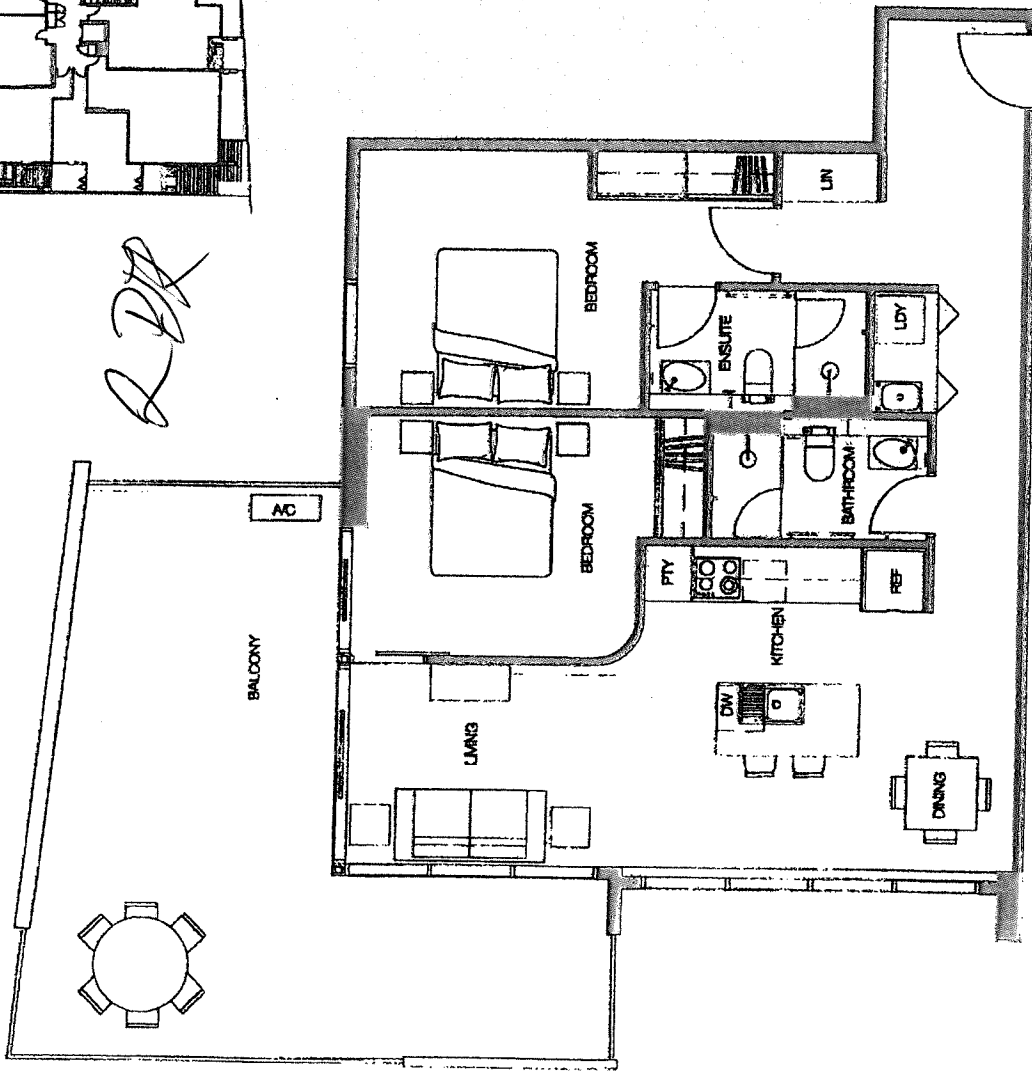
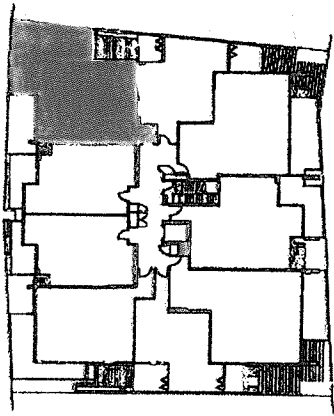
Quayhouse  
Bentley  
Bentley, Western Australia  
6100

**Quayhouse**

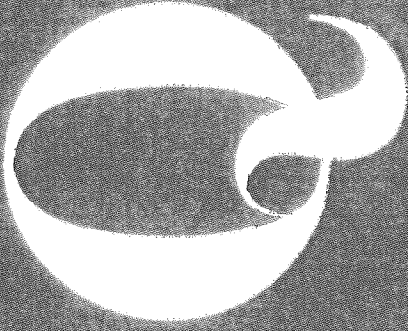
Specialised Real Estate

quayhouse.com.au

OpenCorp.



ITEM CODES  
 ART - ARTWORK  
 CLO - CLOSET  
 DW - DRAINAGE  
 FLD - FLOORING  
 LCP - LIGHTING



one bedroom  
one bathroom  
one car space  
apartment

Type 1-07

Unit area 61m<sup>2</sup>  
Balcony area 10m<sup>2</sup>  
Total area 71m<sup>2</sup>

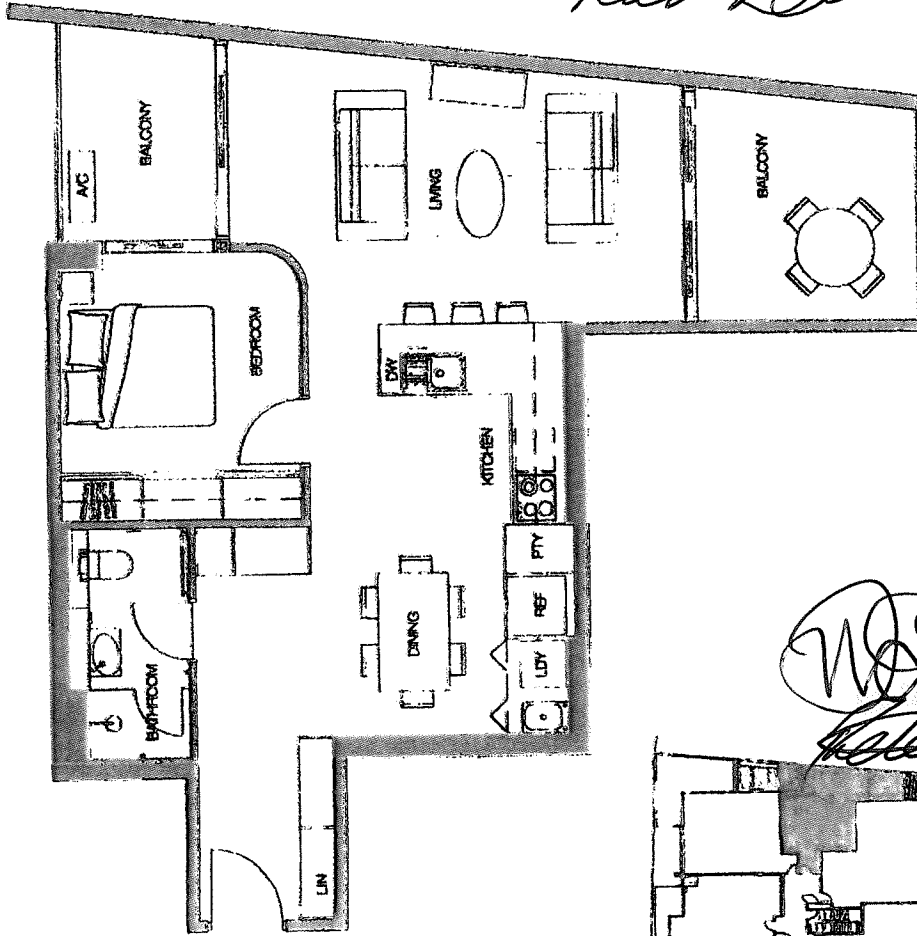
Quayhouse

See this apartment

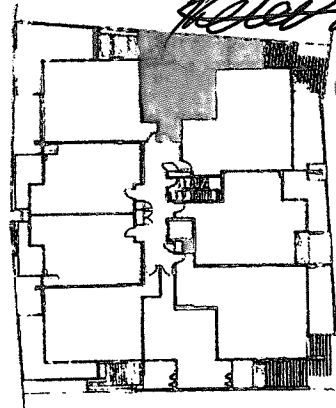
[quayhouse.com.au](http://quayhouse.com.au)

OpenCorp

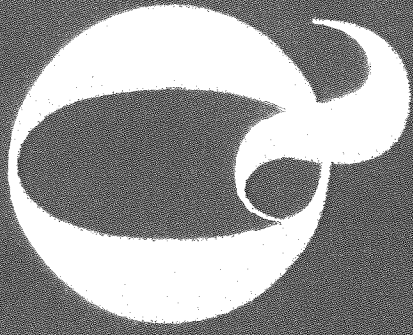
*Michael Ph*  
*Peter Jones*



*Michael Ph*  
*Peter Jones*



ITEM CODES  
100 - UNIT  
101 - BALCONY  
102 - GARAGE  
103 - STORE



two bedroom  
two bathroom  
one car space  
apartment

Type 1-08

100/102-104  
Balfour Street  
Burrumbidgee

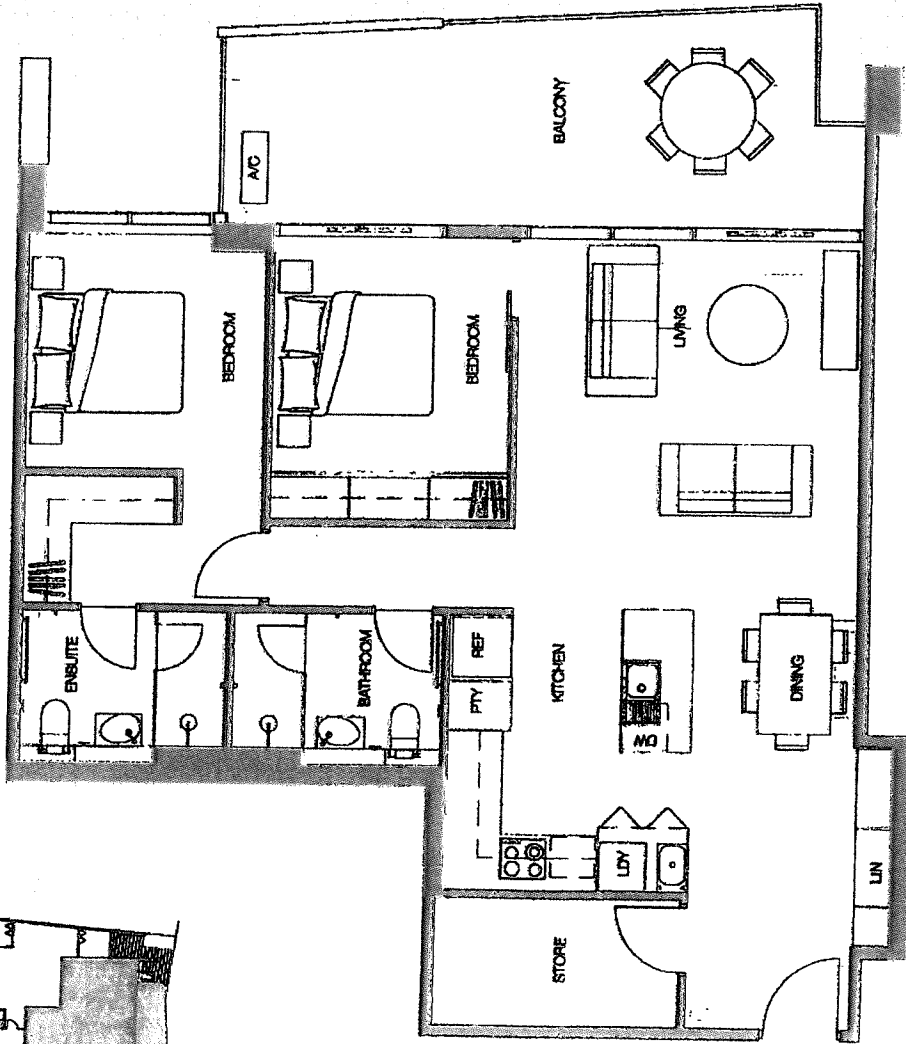
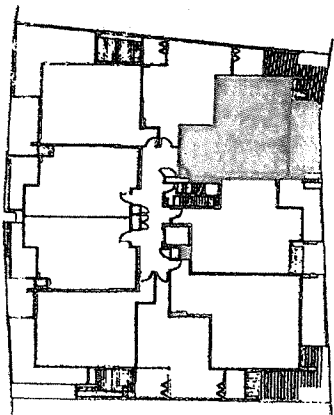
**Quayhouse**

Real Estate

quayhouse.com.au

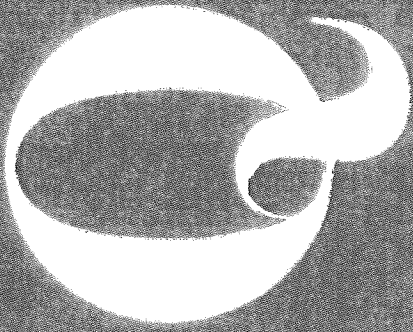
OpenCorp.

*Handwritten initials: R, DP*



ITEM CODES  
REF - REFRIGERATOR  
STOVE - STOVE  
OVN - OVEN  
CUPB - CUPBOARD  
WDR - WARDROBE  
DIN - DINING TABLE  
SOFA - SOFA  
TV - TELEVISION  
CUP - CUPBOARD





two bedroom  
two bathroom  
one car space  
apartment

Type 1-09

Unit area 70m<sup>2</sup>  
Balcony area 12m<sup>2</sup>  
Total area 124m<sup>2</sup>

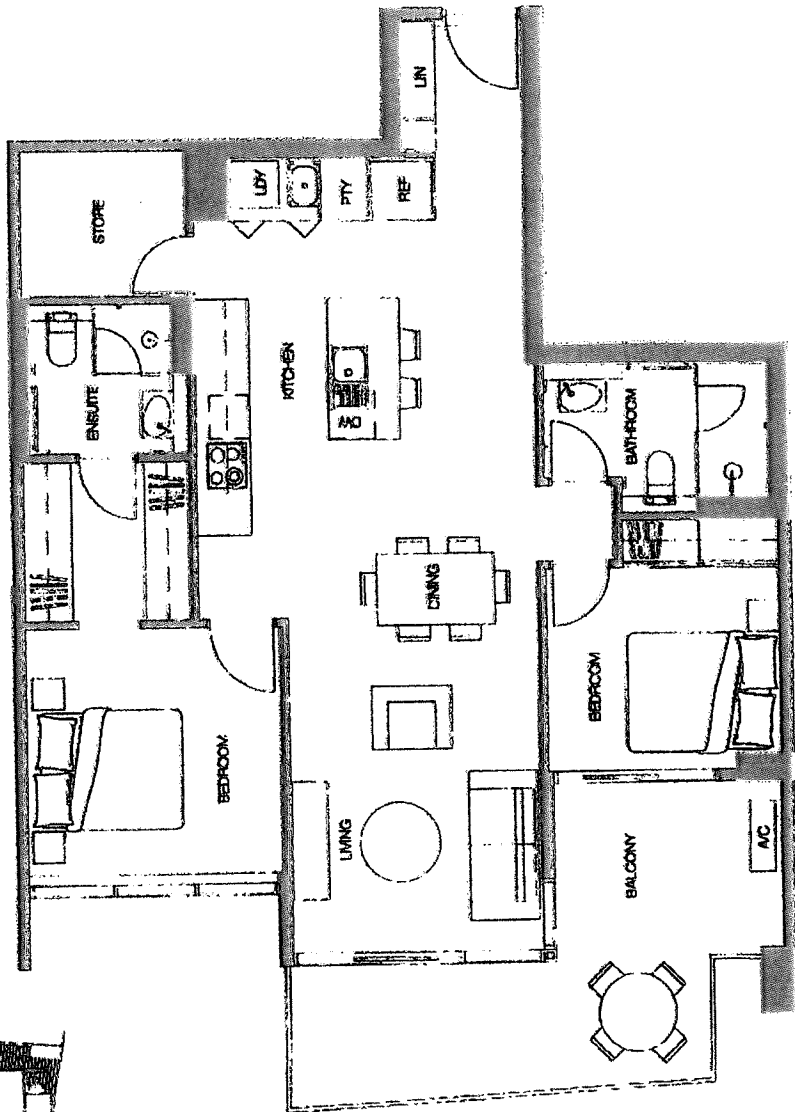
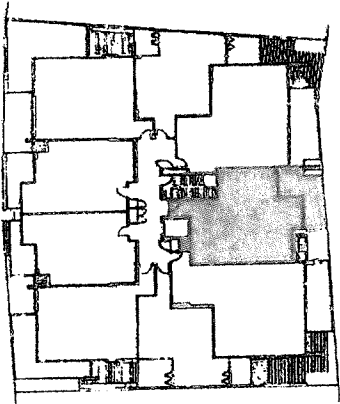
**Quayhouse**

Sea Point, Effort

100% Home Ownership

[quayhouse.com.au](http://quayhouse.com.au)

OpenCorp.



*BR*

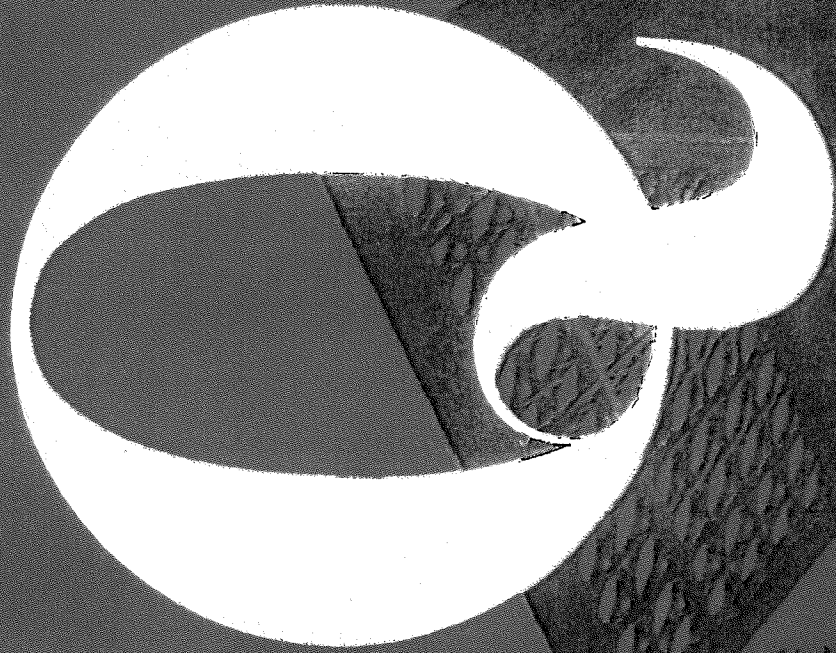
ITEM CODES  
 REF: REF: REF: (A) (B)  
 TEL: 02 9555 1111  
 WWW: WWW.QUAYHOUSE.COM.AU  
 PO BOX 1111  
 NSW 1570 4448 4448

## Annexure B Specifications

### Annexure to Contract of Sale – Quayhouse

*This page has been intentionally left blank*

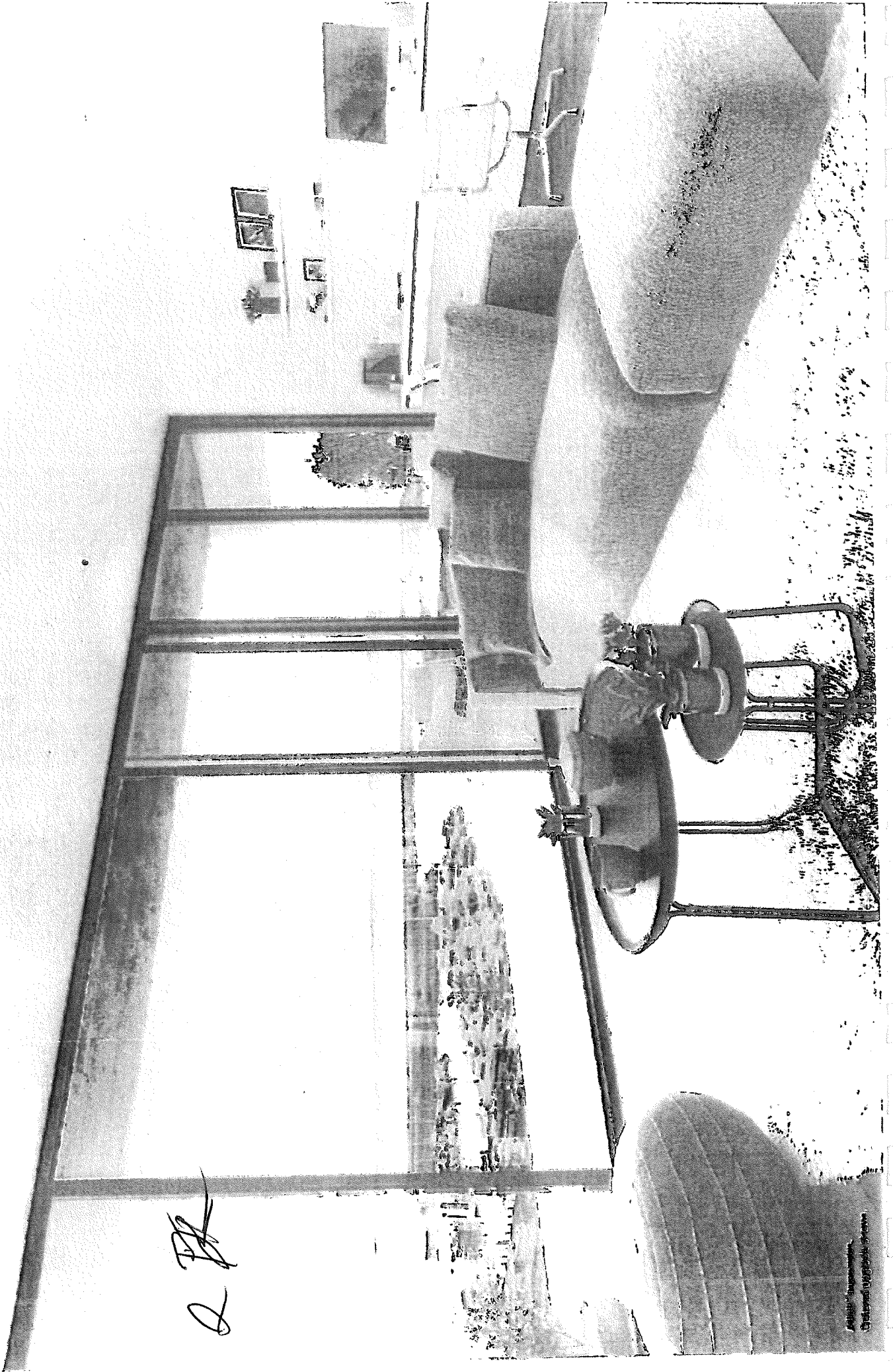
finishes  
fixtures + fittings



Quayhouse

Sea. life. different.

DR



Q PR



OpenCorp.

Disclaimer:  
This is a preliminary  
document and  
not a contract.  
Part of the

# internal+external construction

<b>Floors</b>	Reinforced concrete slab
<b>External Walls</b>	Paint or render finish
<b>Internal Walls</b>	Paint finish
<b>Doors &amp; Windows</b>	Powder-coated aluminium frames with clear glazing
<b>Ceilings/Bulkheads</b>	Concrete with skim coating or plasterboard with paint finish

# common areas fixtures+fitings

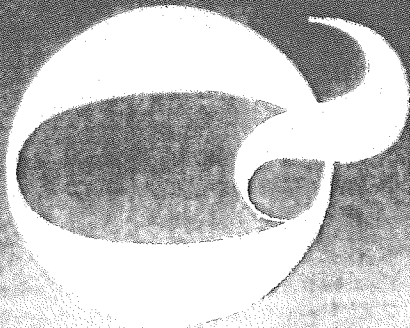
<b>Entry Lobby Ground</b>	Tiling to floors
<b>Lift Lobbies (1-4)</b>	Carpet to floors
<b>Balcony</b>	Glass aluminium balustrade
<b>Lifts</b>	1 x passenger lift accessing all levels

# communal rooftop

<b>Rooftop Area</b>	Aluminum laser cut screens
	Garden planters
	Pool surrounded by decking and sun loungers
	Rooftop cinema incorporating screen and seating
	Stone pavers or tiling to other areas
	Synthetic grass
	Bench seating

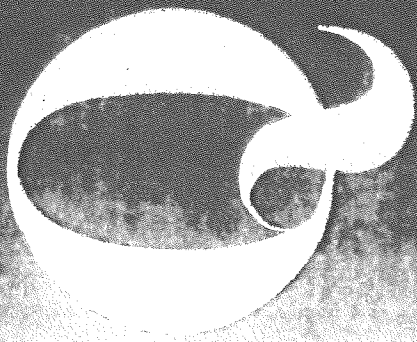
# internal materials + finishes

<b>Wall Finish</b>	Concrete with skim coating or plasterboard with paint finish
<b>Ceilings</b>	Concrete with skim coating or plasterboard with paint finish
<b>Ceilings to Wet areas</b>	Plasterboard with paint finish
<b>Skirting</b>	Semi gloss paint finish
<b>Doors</b>	Semi-gloss paint finish
<b>Floor Finishes</b>	Tiles to kitchen, bathroom and laundry
	Broadloom carpet to bedrooms and living
<b>Wardrobes</b>	Sliding doors with aluminium frame
<b>Air-Conditioning</b>	Split system air-conditioning to living and master bedroom



OpenCorp.

Disclaimer:  
OpenCorp  
Information  
is provided for  
information only  
and does not constitute  
part of any contract.



OpenCorp.

Disclaimer:  
OpenCorp  
does not  
guarantee  
that content  
is part of its

## kitchen

<b>Kitchen Benchtop</b>	Reconstituted stone to all benchtops
<b>Kitchen Splashback</b>	Colourback glass or tiles
<b>Kitchen Cupboards</b>	Laminate finish
<b>Kitchen Sink</b>	Stainless steel single bowl
<b>Tapware</b>	Chrome mixer
<b>Appliances</b>	Bosch (or similar) electric oven, 4 burner electric cooktop, rangehood and dishwasher

## bathroom/ ensuite

<b>Vanity Joinery</b>	Laminate finish
<b>Shower Screens</b>	Laminate/Mirror finish
<b>Vanity Basin</b>	Wall hung basin
<b>Toilet Suite</b>	Dual flush toilet suite
<b>Bathroom Tapware</b>	Chrome taps
<b>Accessories</b>	Chrome towel rail and toilet roll holder

## laundry

<b>Laundry tub, mixer</b>	Stainless Steel Trough with chrome taps and stop taps and stop cocks
<b>Dryer</b>	Bosch or similar



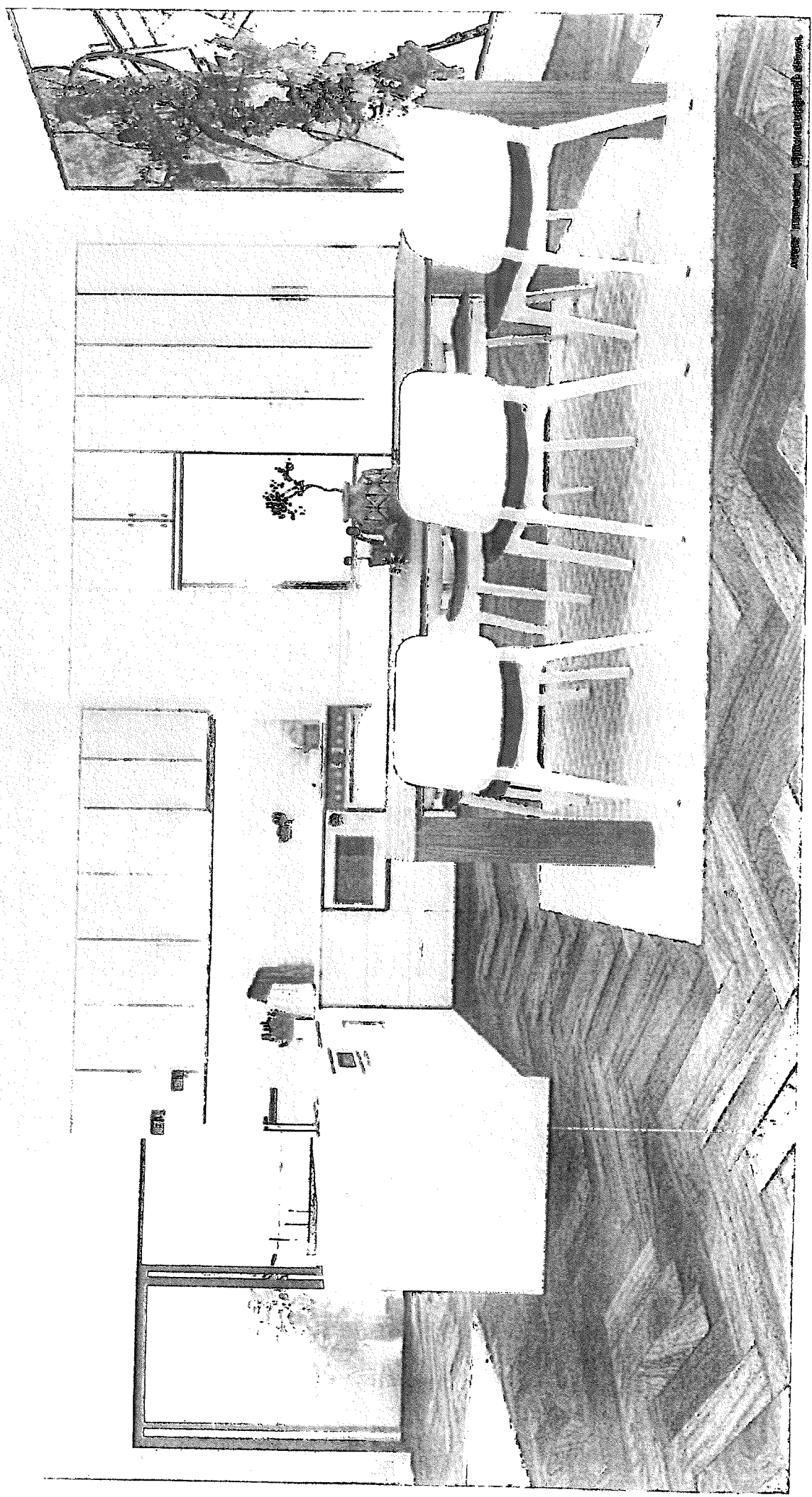


OpenCorp.

Disclaimer:  
OpenCorp  
Information  
is not  
part of the  
contract.

# electrical

<b>Unit Lighting</b>	Downlights or surface mounted lights to all areas Ceiling light to balcony and bedrooms
<b>Living / Dining</b>	3 x GPO's, Data/Phone
<b>Kitchen</b>	2 x GPO's
<b>Study</b>	1 x GPO
<b>Master Bedroom</b>	2 x GPO's, Data/Phone
<b>Bed 2</b>	2 x GPO's, Data/Phone
<b>Bathroom</b>	1 x GPO
<b>Telephone and Internet</b>	All units to be serviced by NBN



R.  
FR

## Annexure C Disclosure Statement – Form 28

Annexure to Contract of Sale – Quayhouse

*This page has been intentionally left blank*

DISCLOSURE STATEMENT

SALE OF STRATA TITLED LOT OR PROPOSED STRATA TITLED LOT

Section 69 *Strata Titles Act 1985*

FOR SELLER'S INFORMATION

1. The information incorporated in this statement —
  - must be given to a prospective purchaser of a strata titled lot before the prospective purchaser makes an offer to purchase, accepts an offer to sell or enters into a contract to purchase the strata titled lot; and
  - may be given in the form of this statement or may be incorporated in the contract of sale of the strata titled lot.
2. This statement applies to the sale of a lot on a strata plan or a survey-strata plan.
3. If certain changes occur in relation to the strata company, the strata/survey-strata plan or the common property (as set out in section 69C(3) of the *Strata Titles Act 1985* and mentioned in Form 29), before settlement, you must give notice in writing of those changes to the prospective purchaser as soon as you become aware of those changes.
4. Failure to give this statement or incorporate the information in the contract of sale or failure to notify of any changes may give the prospective purchaser the right to terminate the contract. Exercise of this right by the prospective purchaser is restricted if this statement or notification of any changes was given at any time before settlement.

Parts 1 and 3 must be completed in every sale of a strata titled lot or proposed strata titled lot.

Part 2 must be completed where the strata titled lot or proposed strata titled lot is being sold by the original proprietor, in any of the cases listed in Part 2.

FOR PURCHASER'S INFORMATION

1. The land to which this statement relates, and any ensuing contract of sale, is part of a strata titled scheme which is governed by the *Strata Titles Act 1985*.
2. You should read the information incorporated in this statement as it —
  - identifies the lot which you are proposing to purchase; and
  - sets out what your rights and obligations will be in relation to the lot if you purchase the lot.
3. You may have a right to terminate the contract to purchase the lot if —
  - before entering into the contract, you were not given this statement or the information in this statement was not incorporated into the contract; or
  - certain changes occur in relation to the strata company, the strata/survey-strata plan or the common property (as set out in section 69C(3) of the *Strata Titles Act 1985* and mentioned in Form 29) before settlement and you have not been given notice in writing of those changes.
4. Your right to terminate the contract is restricted if this statement or notification of any changes was given at any time before settlement.
5. If you are uncertain as to any of these matters you should obtain independent advice from a lawyer or other expert before signing any offer to purchase, accepting an offer to sell or entering into a contract to purchase the lot.

## PART 1 — COMPULSORY DISCLOSURE OF INFORMATION BY EVERY VENDOR

**Particulars of purchaser and strata company**

Description of lot to be sold is the lot number specified on the front page of this Contract on Strata Plan 71830

Street address of lot is the lot number specified on the front page of this Contract, Quayhouse Apartments, 8-10 Brunswick Street, Port Coogee

Name of prospective purchaser(s): The Buyer specified on page 1 of this Contract

Purchaser's address: The address of the Buyer specified on page 1 of this Contract

Name of Scheme (Building): Quayhouse Apartments

~~\*Address of strata company/~~ name and address of agent (for obtaining section 43 certificate or inspection of records of strata company):

The Owners of Quayhouse Apartments, care of Bellcourt Strata Management, PO Box 7099, Shenton Park WA 6008.

Contact person (if known) Scott Bellerby Telephone 08 9382 7700  
 (\* Delete whichever is inapplicable)

**Information in relation to Lot, Strata/Survey-strata scheme**

The following documents must be attached to this statement:

1. A copy of Form 29 entitled "Buying and Selling a Strata Titled Lot".  
 The standard by-laws are set out in or attached to Form 29.  
 See Attachment No. 1.
2. A copy of the registered or proposed strata/survey-strata plan with the lot to be purchased clearly identified and drawing attention to any information on the plan which relates especially to the lot.  
 See Attachment No. 2.
3. A statement of the unit entitlement or proposed unit entitlement of all lots in the scheme or proposed scheme and the aggregate or proposed aggregate unit entitlement. This statement may be —
  - included in the attached copy of the registered or proposed strata/survey-strata plan — ; or
  - a separate statement — see Attachment No. 3.
4. A copy of all non-standard strata company by-laws —
  - in the case of an existing scheme, that have been recorded on the strata/survey-strata plan or have been passed by the strata company within the previous 3 months and not yet recorded on the strata/survey-strata plan; or
  - in the case of a proposed scheme, that are proposed to apply to the scheme, including, where applicable, a Schedule 2A Management Statement.
 See Attachment No. 4.

**PART 2 — DISCLOSURE BY ORIGINAL PROPRIETOR  
WHEN STRATA LOT SOLD FOR FIRST TIME**

*Part 2 must be completed only where the original proprietor is the vendor and –*

- *the strata titled lot being purchased is on a strata/survey-strata plan that has not been registered; or*
- *if the first annual general meeting of the strata company has not been held by the original proprietor; or*
- *if the original proprietors is the owner of 50% or more of the lots in the strata/survey –strata scheme; or*
- *if the original proprietor has 50% or more of the aggregate unit entitlement in the strata/survey-strata scheme.*

**Additional information in relation to strata/survey-strata scheme**

**1. Agreements for provision of amenities, management or other services**

Have either of the strata company or the Original Proprietor entered into, or propose to enter into, any management agreement, service or maintenance agreement or other agreement for the provision of any amenity or service to the strata company or to any part of the common property or any lot?

YES [X]                      NO [    ]

If yes -

- give details of the terms and conditions of every such agreement, the consideration for it and the estimate costs to the proprietor of the Lot.

OR:

- attach copies of the agreements may be attached - See Attachment No. 5

**2. Pecuniary interest in agreements**

Does the original proprietor have any direct or indirect pecuniary interest, other than as a proprietor of a lot, in any of the agreements referred to in question 1?

YES [    ]                      NO [ X ]

If YES –

- give details of the pecuniary interest(s)

OR:

- attach details - See Attachment No

**3. Estimated strata company receipts and expenditure**

Attach a copy of the estimated receipts and expenditure of the strata company for the 12 month period from the later of –

- the day of registration of the strata/survey-strata plan; or
- the day of the last Annual General Meeting or, if non has been held during the 15 months preceding the date of the contract, from the settlement date stated in the contract

See Attachment No. 6

**4. Administrative fund of the strata company**

Is there an administrative fund or proposed administrative fund?

YES  NO

If yes, the contribution or proposed contribution for the Lot, under section 36(1) of the *Strata Titles Act 1985*, is \$ \_\_\_\_\_ per annum, which is payable –

- annually
- by half-yearly instalments of \$ \_\_\_\_\_
- by quarterly instalments of \$ \_\_\_\_\_ See Attachment No. 6
- otherwise (please specify)

**5. Reserve fund of the strata company**

Is there a reserve fund or a proposed reserve fund?

YES  NO

If yes, the amount of the contribution or proposed contribution for the Lot, under section 36(2) of the *Strata Titles Act 1985*, is \$ \_\_\_\_\_ per annum, which is payable –

- annually
- by half-yearly instalments of \$ \_\_\_\_\_
- by quarterly instalments of \$ \_\_\_\_\_ See Attachment No. 6
- otherwise (please specify)

**6. Proposed lease, licence, exclusive use or special privilege**

Have either of the strata company or the original proprietor granted or propose to grant any lease, licence, right to exclusive use or special privilege over the common property or any part of it to the purchaser or any other person?

YES  NO

If yes –

- give details of each lease, license, right of exclusive use or special privilege, or proposed lease, licence, right of exclusive use or special privilege

OR:

- attach copies of each lease, license, right of exclusive use or special privilege, or proposed lease, licence, right of exclusive use or special privilege



**PART 3 — ACKNOWLEDGMENT OF RECEIPT OF NOTIFIABLE INFORMATION**

**Statement by Vendor(s)**

Name(s): Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust

Address(es): Suite 15, 622 Ferntree Gully Road, Wheelers Hill VIC 3150

We, the Vendors, hereby certify that the notifiable information in relation to the Strata lot as described in Part 1 of this form, as required by section 69 of the *Strata Titles Act 1985*, has been given to —

- \* the prospective purchaser(s); or
  - \* the listing agent to provide it to the prospective purchaser(s),
- before the offer or contract to purchase this property was signed by the purchaser.

We authorise the prospective purchaser(s) to inspect the records of the strata company.

Vendor(s) signature(s) .....

Paul Matthew Wilson as the duly constituted attorney of the Vendor

Date .... 21/11/16 .....

(\* Delete whichever is inapplicable)

**Acknowledgment by prospective purchaser(s)**

\*I/We, the prospective purchaser(s) described in Part 1 of this form, acknowledge that \*I/we have received notifiable information in respect of the lot described in Part 1 of this form and understand that the disclosure given by the vendor(s) or by the selling agent is not an offer or a contract to purchase a strata titled lot, but only provides information to \*me/us.

Prospective purchaser(s) signature(s) .....

Date .. 24-11-16 .....

(\* Delete whichever is inapplicable)

**Statement by selling agent**

I, ..... Jordan Peirce ..... name of agent),  
of ..... Capital Property Marketing ..... (name of firm),  
as selling agent, hereby certify that the notifiable information for this property, as provided by the vendor, has been given to the prospective purchaser(s).

Selling agent's signature .....

Date .. 21/11/16 .....

**Attachment 1 - Form 29 - Buying and selling a strata titled lot**

**Attachment to Annexure C Disclosure Statement – Form 28**

***This page has been intentionally left blank***

Form 29

Strata Titles Act 1985

Section 69A(f)

**BUYING AND SELLING A STRATA TITLED LOT**

This information applies to lots in a strata scheme and a survey-strata scheme.

If you are uncertain about any matter mentioned below you should obtain independent advice from a lawyer or other expert **BEFORE** signing an offer to purchase or sell or entering into a contract to purchase a strata titled lot.

If you intend **BUYING A STRATA TITLED LOT**, you should note that as owner of the lot you will be subject to the following obligations and restrictions.

- 1 You will be buying strata titled lot AND a share in the common property in the strata titled scheme.

The lot number on the strata or survey-strata plan may not correspond with the unit/apartment number used for postal purposes.

- 2 The strata titled scheme consists of all of the lots and the common property which are shown on the strata or survey-strata plan.

On a strata plan, the common property may comprise parts of a building or buildings (e.g. walls, floors, roof) in which the lots may be situated and any land not part of a lot.

On a survey-strata plan, the common property is those lots shown as "CP lots" on the plan and will include any building which is situated on a common property lot.

- 3 As an owner of a strata titled lot, you will be a member of the strata company and entitled to participate in its management.

A strata company automatically comes into existence on registration of the strata or survey-strata plan.

- 4 Your right to deal with the lot and use the common property is restricted because it is subject to the *Strata Titles Act 1985*, the by-laws of the strata company, any resolutions which the strata company may have passed, and management by the strata company.

A copy of the standard by-laws for strata companies which is contained in the *Strata Titles Act 1985*, is printed at the end of or is attached to this brochure.

The standard by-laws may be repealed, changed or added to by the strata company.

The standard by-laws may be changed by a Management Statement registered at the same time the strata or survey-strata plan is registered.

Later changes to the by-laws by the strata company will be recorded in its records and must be registered on the strata or survey-strata plan within 3 months.

Restrictions on the use of the lot may also be shown on the strata or survey-strata plan.

The strata company may have passed resolutions which affect the lots and common property, e.g. approving a plan of a re-subdivision or a transfer or lease of common property. These resolutions are recorded in the minutes of meetings of the strata company.

- 5 You will be liable to pay a strata levy to the strata company for administrative expenses, including maintenance, upkeep and repair of buildings forming part of or on the common property, and insurance of the common property, unless you are in a scheme of 2 to 5 lots which may be exempt from these requirements.

Your contribution will be calculated in proportion to the unit entitlement of the lot to the aggregate unit entitlement of all of the lots on the strata or survey-strata plan, unless the strata company has passed a by-law to change the basis on which the contributions are proportioned.

The unit entitlement is found on the strata or survey-strata plan.

You may also be liable to contribution to a reserve fund for contingent expenses, which will be calculated in proportion to the unit entitlement of the lot.

The amount of contributions to a strata levy and reserve fund can be obtained in a certificate from the strata company. The strata company will also be able to advise of any outstanding contributions owing by the vendor and of any contributions which have been approved but are not yet due.

- 6 Except in certain circumstances, you will not be able to build on the lot or make any alternations to (including removal of) a building on the lot without the approval of the strata company.

**BEFORE ENTERING INTO A CONTRACT** or an offer to purchase or sell a strata titled lot, the vendor must provide to the purchaser a completed and signed Disclosure Statement (Form 28 in the *Strata Titles General Regulations 1996*).

Alternatively, the information required to be included in the Disclosure Statement may be incorporated into the contract.

The Disclosure Statement (or contract) must have attached to it:

- o a copy of the registered or proposed strata or survey-strata plan, which clearly identifies the lot being sold and any information which relates specifically to the lot;
- o a copy of this document ("Buying and Selling a Strata Titled Lot") (including the standard by-laws);
- o a copy of all non standard by-laws of the strata company, including any which have been passed by the strata company but not yet registered or any by-laws which are proposed to apply to the scheme;
- o the unit entitlement of all of the lots in the scheme.

If the vendor is the original proprietor of the lot, then the additional information which is listed in Part 2 of the Disclosure Statement must also be given.

The purchaser may have the **RIGHT TO TERMINATE A CONTRACT** to purchase a strata titled lot if:

- (i) a signed and completed Disclosure Statement was not provided by the vendor before the purchaser entered into the contract or the information required to be included in the Disclosure Statement was not included in the contract; or
- (ii) certain changes occur in relation to the strata company, the strata or survey-strata plan or the common property (as set out in section 69C(3) of the *Strata Titles Act 1985*) before settlement and the vendor has not given notice in writing to the purchase of those changes.

The purchaser's right to terminate the contract is restricted if the Disclosure Statement or notification of any changes was given after entering into the contract but before settlement.

The **STANDARD BY-LAWS** contained in the *STRATA TITLES ACT 1985* are set out below/attached and marked 'A'.

(\*Delete whichever is not applicable)

## Strata Titles Act 1985 - Standard By-laws

### Schedule 1

#### 1. Duties of proprietor, occupiers etc.

(1) A proprietor shall:

- (a) forthwith carry out all work that may be ordered by any competent public authority or local government in respect of his lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his lot;
- (b) repair and maintain his lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

(1a) A proprietor shall:

- (a) notify the strata company forthwith upon any change of ownership, including in the notice an address of the proprietor for service of notices and other documents under this Act; and
- (b) if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with his lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

(2) A proprietor, occupier or other resident of a lot shall:

- (a) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors, occupiers or residents, or of their visitors; and

- (b) not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to any occupier of another lot (whether a proprietor or not) or the family of such an occupier; and
- (c) take all reasonable steps to ensure that his visitors do not behave in a manner likely to interfere with the peaceful enjoyment of the proprietor, occupier or other resident of another lot or of any person lawfully using common property; and
- (d) take all reasonable steps to ensure that his visitors comply with the by-laws of the strata company relating to the parking of motor vehicles.

## 2. Power of proprietor to decorate etc.

A proprietor may, without obtaining the consent of the strata company, paint, wallpaper or otherwise decorate the structure which forms the inner surface of the boundary of his lot or affix locking devices, flyscreens, furnishings, furniture, carpets and other similar things to that surface, if and so long as such action does not unreasonably damage the common property.

## 3. Power of strata company regarding submeters

- (1) Where the supply of gas or electricity to a lot is regulated by means of a submeter, the strata company may require the proprietor or other occupier of the lot to pay the strata company by way of security for the payment of charges arising through the submeter an amount not exceeding \$200 and, if any amount so paid is applied by the strata company under sub-bylaw (2), to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as, subject to this sub-bylaw, the strata company may require.
- (2) The strata company shall lodge every sum received under this by-law to the credit of an interest-bearing account with an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth and all interest accruing in respect of amounts so received shall, subject to this by-law, be held on trust for the proprietor or occupier who made the payment.
- (3) If the proprietor or other occupier of a lot in respect of which a submeter is used for the supply of gas or electricity refuses or fails to pay any charges due for the supply of gas or electricity to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that proprietor or occupier under this by-law, including any interest that may have accrued in respect of that amount.
- (4) Where a person who has paid an amount under this by-law to a strata company satisfies the strata company that he is no longer the proprietor or occupier of a lot and that the strata company no longer has any liability or contingent liability for the supply of gas or electricity to that lot during the period when that person was a proprietor or occupier of the lot, the strata company shall refund to that person the amount then held on his behalf under this by-law.

## 4. Constitution of council

- (1) The powers and duties of the strata company shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present shall be competent to exercise all or any of the authorities, functions or powers of the council.

- (2) Until the first annual general meeting of the strata company, the proprietors of all the lots shall constitute the council.
- (3) Where there are not more than 3 proprietors the council shall consist of all proprietors and where there are more than 3 proprietors the council shall consist of not less than 3 nor more than 7 proprietors as is determined by the strata company.
- (4) Where there are more than 3 proprietors the members of the council shall be elected at each annual general meeting of the strata company or, if the number of proprietors increases to more than 3, at an extraordinary general meeting convened for the purpose.
- (5) In determining the number of proprietors for the purposes of this by-law, co-proprietors of a lot or more than one lot shall be deemed to be one proprietor and a person who owns more than one lot shall also be deemed to be one proprietor.
- (6) If there are co-proprietors of a lot, one only of the co-proprietors shall be eligible to be, or to be elected to be, a member of the council and the co-proprietor who is so eligible shall be nominated by his co-proprietors, but, if the co-proprietors fail to agree on a nominee, the co-proprietor who owns the largest share of the lot shall be the nominee or if there is no co-proprietor who owns the largest share of the lot, the co-proprietor whose name appears first in the certificate of title for the lot shall be the nominee.
- (7) On an election of members of the council, a proprietor shall have one vote in respect of each lot owned by him.
- (8) Except where the council consists of all the proprietors, the strata company may by special resolution remove any member of the council before the expiration of his term of office.
- (9) A member of the council vacates his office as a member of the council:
  - (a) if he dies or ceases to be a proprietor or a co-proprietor of a lot; or
  - (b) upon receipt by the strata company of notice in writing of his resignation from the office of member; or
  - (c) at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which he is not elected or re-elected; or
  - (d) in a case where he is a member of the council by reason of there being not more than 3 proprietors, upon an election of members of the council (as a result of there being an increase in the number of proprietors to more than 3) at which he is not elected; or
  - (e) where he is removed from office under sub-bylaw (8).
- (10) Any casual vacancy on the council may be filled by the remaining members of the council, except that, in a case where a casual vacancy arises because of the removal from office of a member under sub-bylaw (8), the strata company may resolve that the casual vacancy shall be filled by the strata company at a general meeting.
- (11) Except where there is only one proprietor, a quorum of the council shall be 2 where the council consists of 3 or 4 members; 3, where it consists of 5 or 6 members; and 4, where it consists of 7 members.



- (12) The continuing members of the council may act notwithstanding any vacancy in the council, but so long as the number of members is reduced below the number fixed by these by-laws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.
- (13) All acts done in good faith by the council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, be as valid as if that member had been duly appointed or had duly continued in office.

## 5. Election of council

The procedure for nomination and election of members of a council shall be in accordance with the following rules:

- (1) The meeting shall determine, in accordance with the requirements of by-law 4(3) the number of persons of whom the council shall consist.
- (2) The chairman shall call upon those persons present and entitled to nominate candidates to nominate candidates for election to the council.
- (3) A nomination is ineffective unless supported by the consent of the nominee to his nomination, given —
  - (a) in writing, and furnished to the chairman at the meeting; or
  - (b) orally by a nominee who is present at the meeting.
- (4) When no further nominations are forthcoming, the chairman:
  - (a) where the number of candidates equals the number of members of the council determined in accordance with the requirements of by-law 4(3), shall declare those candidates to be elected as members of the council;
  - (b) where the number of candidates exceeds the number of members of the council as so determined, shall direct that a ballot be held.
- (5) If a ballot is to be held, the chairman shall:
  - (a) announce the names of the candidates; and
  - (b) cause to be furnished to each person present and entitled to vote a blank paper in respect of each lot in respect of which he is entitled to vote for use as a ballot-paper.
- (6) A person who is entitled to vote shall complete a valid ballot-paper by:
  - (a) writing thereon the names of candidates, equal in number to the number of members of the council so that no name is repeated; and
  - (b) indicating thereon the number of each lot in respect of which his vote is cast and whether he so votes as proprietor or first mortgagee of each such lot or as proxy of the proprietor or first mortgagee; and
  - (c) signing the ballot-paper; and

- (d) returning it to the chairman.
- (7) The chairman, or a person appointed by him, shall count the votes recorded on valid ballot-papers in favour of each candidate.
- (8) Subject to sub-bylaw (9), candidates, being equal in number to the number of members of the council determined in accordance with by-law 4(3), who receive the highest numbers of votes shall be declared elected to the council.
- (9) Where the number of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in sub-bylaw (8) and:
  - (a) that number equals the number of votes recorded in favour of any other candidate; and
  - (b) if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected,
 as between those candidates, the election shall be decided by a show of hands of those present and entitled to vote.

#### **6. Chairman, secretary and treasurer of council**

- (1) The members of a council shall, at the first meeting of the council after they assume office as such members, appoint a chairman, a secretary and a treasurer of the council.
- (2) A person:
  - (a) shall not be appointed to an office referred to in sub-bylaw (1) unless he is a member of the council; and
  - (b) may be appointed to one or more of those offices.
- (3) A person appointed to an office referred to in sub-bylaw (1) shall hold office until:
  - (a) he ceases to be a member of the council; or
  - (b) receipt by the strata company of notice in writing of his resignation from that office; or
  - (c) another person is appointed by the council to hold that office,
 whichever first happens.
- (4) The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman.

#### **7. Chairman, secretary and treasurer of strata company**

- (1) Subject to sub-bylaw (2), the chairman, secretary and treasurer of the council are also respectively the chairman, secretary and treasurer of the strata company.

- (2) A strata company may at a general meeting authorise a person who is not a proprietor to act as the chairman of the strata company for the purposes of that meeting.
- (3) A person appointed under sub-bylaw (2) may act until the end of the meeting for which he was appointed to act.

#### 8. Meetings of council

- (1) At meetings of the council, all matters shall be determined by a simple majority vote.
- (2) The council may:
  - (a) meet together for the conduct of business and adjourn and otherwise regulate its meetings as it thinks fit, but the council shall meet when any member of the council gives to the other members not less than 7 days' notice of a meeting proposed by him, specifying in the notice the reason for calling the meeting;
  - (b) employ on behalf of the strata company such agents and employees as it thinks fit in connection with the control and management of the common property and the exercise and performance of the powers and duties of the strata company;
  - (c) subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.
- (3) A member of a council may appoint a proprietor, or an individual authorised under section 45 of the Act by a corporation which is a proprietor, to act in his place as a member of the council at any meeting of the council and any proprietor or individual so appointed shall, when so acting, be deemed to be a member of the council.
- (4) A proprietor or individual may be appointed under sub-bylaw (3) whether or not he is a member of the council.
- (5) If a person appointed under sub-bylaw (3) is a member of the council he may, at any meeting of the council, separately vote in his capacity as a member and on behalf of the member in whose place he has been appointed to act.
- (6) The council shall keep minutes of its proceedings.

#### 9. Powers and duties of secretary of strata company

The powers and duties of the secretary of a strata company include:

- (a) the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting; and
- (b) the giving on behalf of the strata company and of the council of the notices required to be given under the Act; and
- (c) the supply of information on behalf of the strata company in accordance with section 43(1)(a) and (b) of the Act; and
- (d) the answering of communications addressed to the strata company; and

- (e) the calling of nominations of candidates for election as members of the council; and
- (f) subject to sections 49 and 103 of the Act the convening of meetings of the strata company and of the council.

**10. Powers and duties of treasurer of strata company**

The powers and duties of the treasurer of a strata company include:

- (a) the notifying of proprietors of any contributions levied pursuant to the Act; and
- (b) the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company; and
- (c) the preparation of any certificate applied for under section 43 of the Act; and
- (d) the keeping of the books of account referred to in section 35(1)(f) of the Act and the preparation of the statement of accounts referred to in section 35(1)(g) of the Act.

**11. General meetings of strata company**

- (1) General meetings of the strata company shall be held once in each year and so that not more than 15 months shall elapse between the date of one annual general meeting and that of the next.
- (2) All general meetings other than the annual general meeting shall be called extraordinary general meetings.
- (3) The council may when ever it thinks fit and shall upon a requisition in writing made by proprietors entitled to a quarter or more of the aggregate unit entitlement of the lots convene an extraordinary general meeting.
- (4) If the council does not within 21 days after the date of the making of a requisition under this by-law proceed to convene an extraordinary general meeting, the requisitionists, or any of them representing more than one-half of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene an extraordinary general meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date on which the requisition was made.
- (5) Not less than 14 days' notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of that business, shall be given to all proprietors and registered first mortgagees who have notified their interests to the strata company, but accidental omission to give the notice to any proprietor or to any registered first mortgagee or non-receipt of the notice by any proprietor or by any registered first mortgagee does not invalidate any proceedings at any such meeting.
- (6) If a proprietor gives notice in writing to the secretary of an item of business that the proprietor requires to be included on the agenda for the next general meeting of the strata company, the secretary shall include that item on the agenda accordingly and shall give notice of that item as an item of special business in accordance with sub-by-law (5).

## 12. Proceedings at general meetings

- (1) All business shall be deemed special that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.
- (2) Except as otherwise provided in these by-laws, no business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (3) One-half of the persons entitled to vote present in person or by duly appointed proxy constitutes a quorum.
- (4) If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting, if convened upon the requisition of proprietors, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons entitled to vote and present constitute a quorum.
- (4a) Sub-bylaws (3) and (4) do not apply to a general meeting of a strata company referred to in section 50B.
- (5) The chairman, may with the consent of the meeting, adjourn any general meeting from time to time and from place to place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (6) Except where otherwise required by or under the Act, resolutions may be passed at a general meeting by a simple majority vote.
- (7) At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy.
- (8) Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- (9) A demand for a poll may be withdrawn.
- (10) A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
- (11) In the case of equality in the votes whether on a show of hands or on a poll, the question is determined in the negative.

## 13. Restriction on moving motion or nominating candidate

A person is not entitled to move a motion at a general meeting or to nominate a candidate for election as a member of the council unless the person is entitled to vote on the motion or at the election.

**14. Votes of proprietors**

- (1) On a show of hands each proprietor has one vote.
- (2) On a poll the proprietors have the same number of votes as the unit entitlements of their respective lots.
- (3) On a show of hands or on a poll votes may be given either personally or by duly appointed proxy.
- (4) An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney and may be either general or for a particular meeting.
- (5) A proxy need not be a proprietor.
- (6) Except in cases where by or under the Act a unanimous resolution or a resolution without dissent is required, no proprietor is entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid and any other moneys recoverable under the Act by the strata company from him at the date of the notice given to proprietors of the meeting have been duly paid before the commencement of the meeting.
- (7) Co-proprietors may vote by proxy jointly appointed by them and in the absence of such a proxy are not entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act.
- (8) On any poll each co-proprietor is entitled to such part of the vote applicable to a lot as is proportionate to his interest in the lot.
- (9) The joint proxy (if any) on a poll has a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.

**15. Common seal**

- (1) The common seal of the strata company shall at no time be used except by authority of the council previously given and in the presence of the members of the council or at least 2 members of the council, who shall sign every instrument to which the seal is affixed, but where there is only one member of the strata company his signature shall be sufficient for the purpose of this by-law.
- (2) The council shall make provision for the safe custody of the common seal.

## Schedule 2

### 1. Vehicles

A proprietor, occupier, or other resident of a lot shall not park or stand any motor or other vehicle upon common property except with the written approval of the strata company.

### 2. Obstruction of common property

A proprietor, occupier, or other resident of a lot shall not obstruct lawful use of common property by any person.

### 3. Damage to lawns etc. on common property

Except with the approval of the strata company, a proprietor, occupier, or other resident of a lot shall not:

- (a) damage any lawn, garden, tree, shrub, plant or flower upon common property; or
- (b) use any portion of the common property for his own purposes as a garden.

### 4. Behaviour of proprietors and occupiers

A proprietor, occupier, or other resident of a lot shall be adequately clothed when upon common property and shall not use language or behave in a manner likely to cause offence or embarrassment to the proprietor, occupier, or other resident of another lot or to any person lawfully using common property.

### 5. Children playing upon common property in building

A proprietor, occupier, or other resident of a lot shall not permit any child of whom he has control to play upon common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain upon common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

### 6. Depositing rubbish etc. on common property

A proprietor, occupier, or other resident of a lot shall not deposit or throw upon that lot or any other lot or the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of another proprietor, occupier or resident or of any person lawfully using the common property.

### 7. Drying of laundry items

A proprietor, occupier, or other resident of a lot shall not, except with the consent in writing of the strata company:

- (a) hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building, other than for a reasonable period on any lines provided by the strata company for the purpose; or

- (b) display any sign, advertisement, placard, banner, pamphlet or like matter on any part of his lot in such a way as to be visible from outside the building.

**8. Storage of inflammable liquids etc.**

A proprietor, occupier, or other resident of a lot shall not, except with the approval in writing of the strata company, use or store upon the lot or upon the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

**9. Moving furniture etc. on or through common property**

A proprietor, occupier, or other resident of a lot shall not transport any furniture or large object through or upon common property within the building unless he has first given to the council sufficient notice of his intention to do so to enable the council to arrange for its nominee to be present at the time when he does so.

**10. Floor coverings**

A proprietor of a lot shall ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the proprietor, occupier or other resident of another lot.

**11. Garbage disposal**

A proprietor or occupier of a lot:

- (a) shall maintain within his lot, or on such part of the common property as may be authorised by the strata company, in clean and dry condition and adequately covered, a receptacle for garbage;
- (b) comply with all local laws relating to the disposal of garbage;
- (c) ensure that the health, hygiene and comfort of the proprietor, occupier or other resident of any other lot is not adversely affected by his disposal of garbage.

**12. Additional duties of proprietors, occupiers etc.**

A proprietor, occupier or other resident shall not:

- (a) use the lot that he owns, occupies or resides in for any purpose that may be illegal or injurious to the reputation of the building; or
- (b) make undue noise in or about any lot or common property; or
- (c) subject to section 42(15) of the Act, keep any animals on the lot that he owns, occupies or resides in or the common property after notice in that behalf given to him by the council.



**13. Notice of alteration to lot**

A proprietor of a lot shall not alter the structure of the lot except as may be permitted and provided for under the Act and the by-laws and in any event shall not alter the structure of the lot without giving to the strata company, not later than 14 days before commencement of the alteration, a written notice describing the proposed alteration.

**14. Appearance of lot**

A proprietor, occupier or other resident of a lot shall not, without the written consent of the strata company, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

## Attachment 2 - Proposed Strata Plan

Attachment to Annexure C Disclosure Statement – Form 28

***This page has been intentionally left blank***



STRATA PLAN

7 1830

SHEET 02 OF 07 SHEETS



MNG 0861 9916 500-0018

BASEMENT PLAN

SEE SHEETS 3 OF 7 FOR OTHER PARTS OF LOTS 4, 5, 11, 15, 16, 19, 21, 25, 29, 34, 35  
 SEE SHEET 4 OF 7 FOR OTHER PARTS OF LOTS 1, 2, 3, 6, 7, 8, 11  
 SEE SHEET 5 OF 7 FOR OTHER PARTS OF LOTS 9, 10, 12, 13, 14, 17, 18, 20  
 SEE SHEET 6 OF 7 FOR OTHER PARTS OF LOTS 22, 23, 27  
 SEE SHEET 7 OF 7 FOR OTHER PARTS OF LOTS 34, 35

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUZZERS  
 SHOWN ON THE STRATA PLAN ARE THE BORN SURFACES OF THE  
 WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER  
 SURFACE OF THE CEILING OF THE PARTS OF THE LOTS WHICH ARE  
 SECTION SUBS OF THE STRATA TILES ACT 1985.

THE STRATUM OF THE PART LOTS SHOWN AS "CARRIAGES", "REB"  
 AND "STORE" DO NOT EXTEND FROM THE UPPER SURFACE OF THE  
 CONCRETE FLOOR TO THE UNDERSIDE OF THE CEILING.

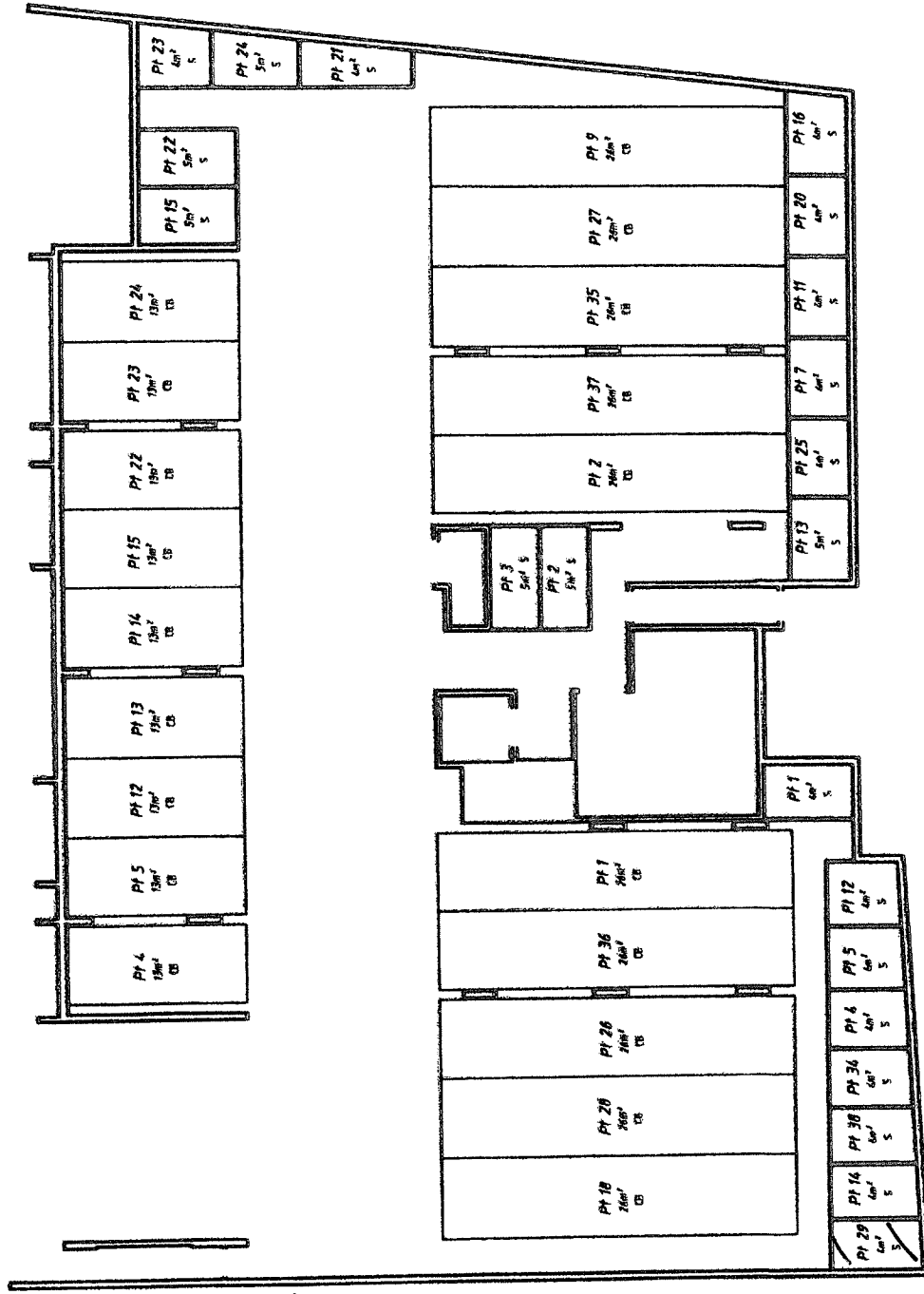
ALL WALLS ARE COMMON PROPERTY.

ALL OPENINGS FROM ONE ROOM ARE FROM EXTERNAL FACE OF  
 WALLS UNLESS OTHERWISE STATED.

ALL ANGLES ON THE PLAN ARE MULTIPLES OF 45° UNLESS OTHERWISE  
 BY STRUCTURES, PAVED BOUNDARIES OR OTHERWISE STATED.

CB = CAR BAY

S = STORE



*The Subjed*  
*7*  
*x*

DRAFT  
 ALL MEASUREMENTS  
 FROM SURFACE TO SURFACE  
 AND VERTICAL APPROVAL

FIELD BY LANDGATE IN DIGITAL FORMAT ONLY

SCALE 1:100 @ A3  
 ALL DISTANCES ARE IN METRES

THIS DOCUMENT IS THE PROPERTY OF LANDGATE AND SHOULD NOT BE REPRODUCED OR DISTRIBUTED WITHOUT THE WRITTEN PERMISSION OF LANDGATE

STRATA PLAN

71830

SHEET 03 OF 07 SHEETS



MNS Ref: 9914-589-001d

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BOUNDARIES SHOWN ON THE STRATA PLAN ARE THE INNER SURFACES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 109 OF THE STRATA TITLES ACT 1985.

THE STRATA OF THE PART LOTS SHOWN AS "COMMON" (C) AND "STORE" (S) EXTENDS FROM THE UPPER SURFACE OF THE CONCRETE FLOOR TO THE UNDERSIDE OF THE CEILING. THE EXTENT OF PART LOTS EXTENDING TO THE BARRIS EXTENDS FROM 5 METRES BELOW THE UPPER SURFACE OF THE FLOOR OF THE RESPECTIVE BUILDING PART LOT TO THE UNDERSIDE OF THE FIRST FLOOR BALCONY PROJECTED OF THE LOT ABOVE.

ALL WALLS ARE COMMON PROPERTY.

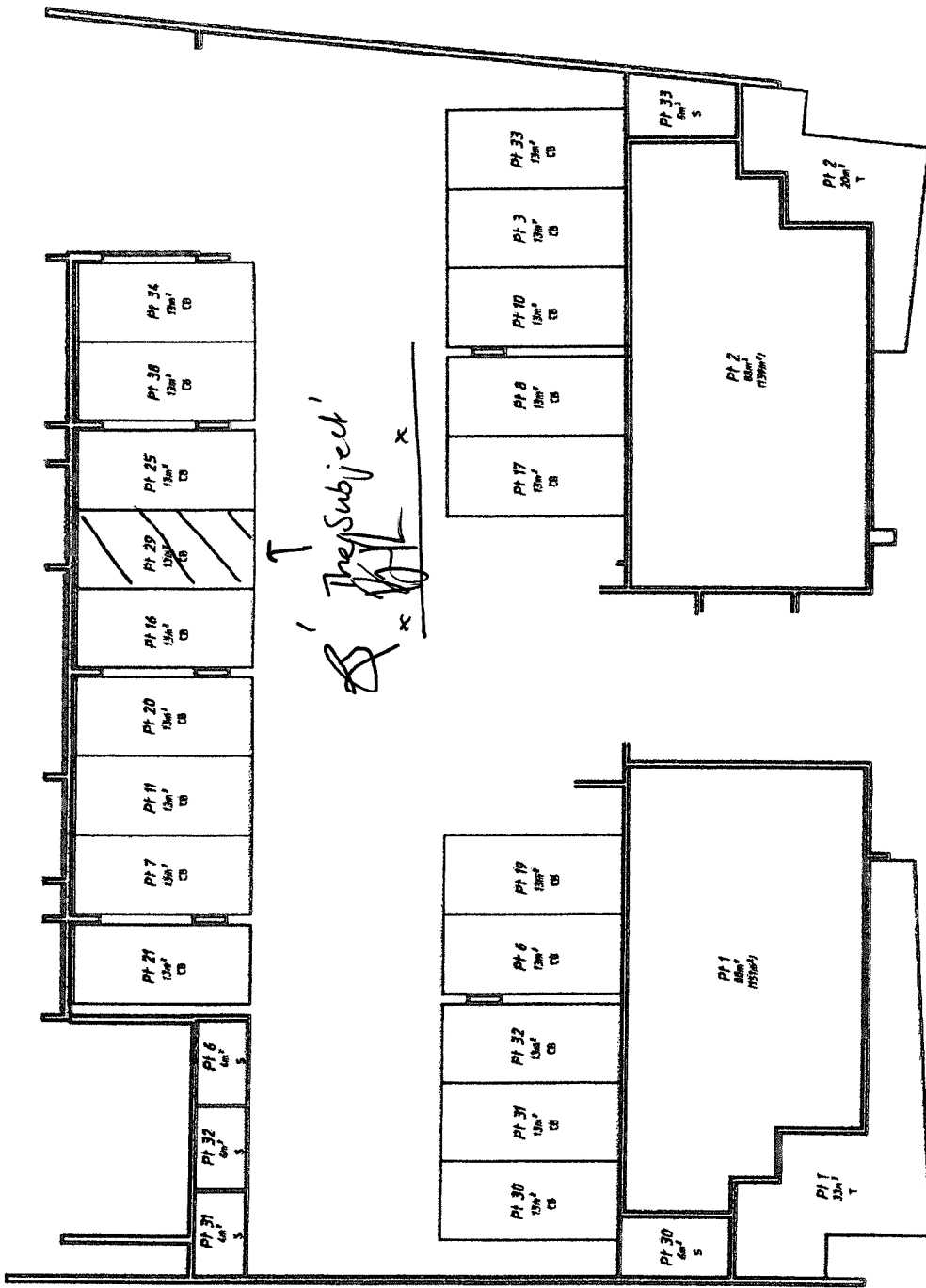
ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS UNLESS OTHERWISE STATED.

ALL DIMENSIONS ON THE PLAN ARE MULTIPLES OF 4.5" UNLESS DERIVED BY STRUCTURAL PRACTICE INDICATED OR OTHERWISE STATED.

- CB = CAR BAY
- S = STORE
- T = TERRACE

GROUND FLOOR PLAN

SEE SHEETS 2 OF 7 FOR OTHER PARTS TO LOTS 1 - 3, 7, 11, 16, 20 - 24, 25, 29, 31, 38  
 SEE SHEET 6 OF 7 FOR OTHER PARTS TO LOTS 2, 4, 8, 9, 10, 11  
 SEE SHEET 5 OF 7 FOR OTHER PARTS TO LOTS 14 - 19, 20  
 SEE SHEET 4 OF 7 FOR OTHER PARTS TO LOTS 21 - 24, 26  
 SEE SHEET 1 OF 7 FOR OTHER PARTS TO LOTS 28 - 30, 32, 36



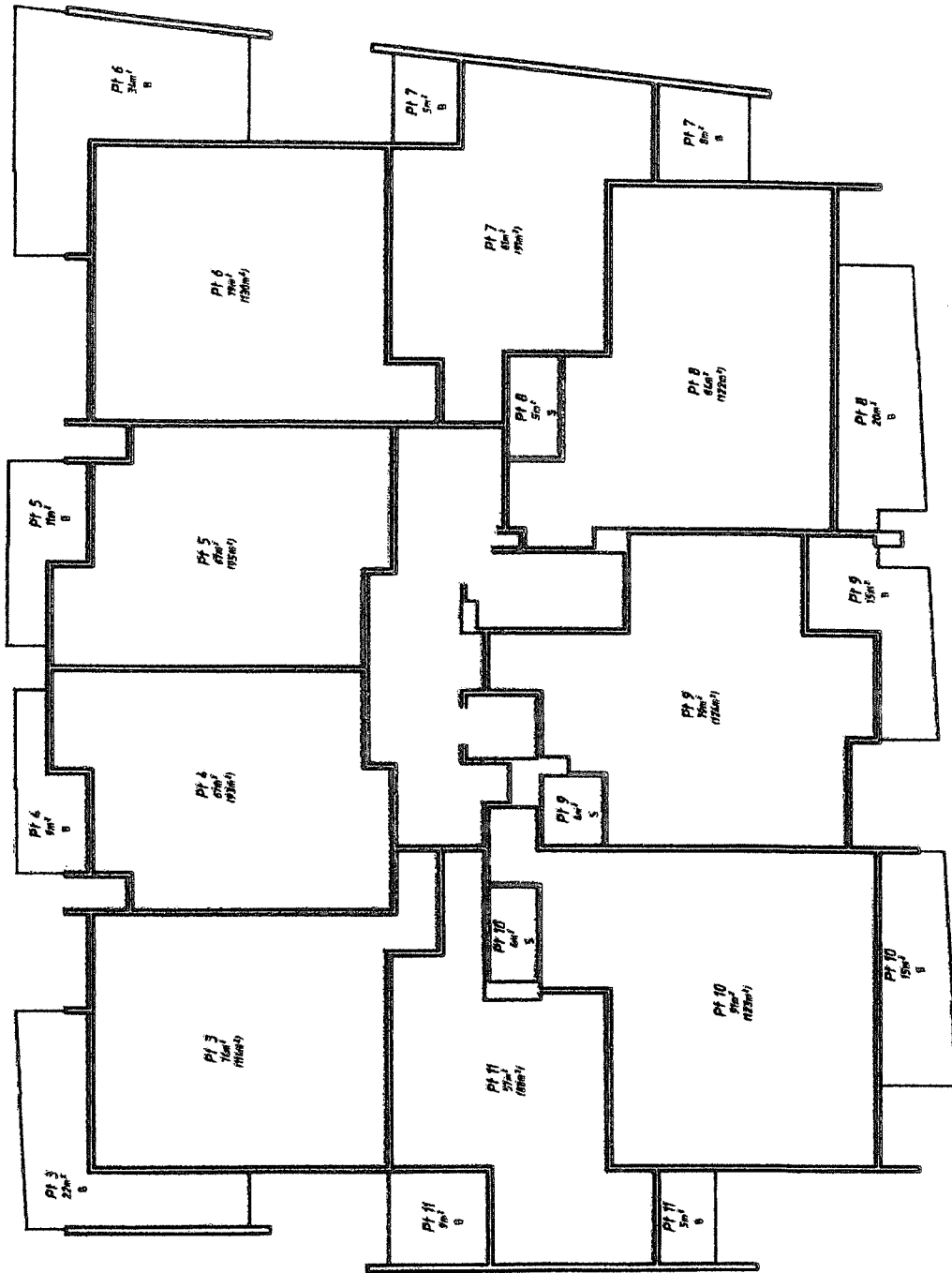
DRAFT  
 ALL AREAS AND DIMENSIONS  
 ARE SUBJECT TO FINAL SURVEY  
 AND WAPC APPROVAL

HELD BY LANDGATE IN DIGITAL FORMAT ONLY



LANDGATE  
 LAND INFORMATION SYSTEMS  
 100/102 SOUTH BRIDGE ROAD  
 SYDNEY NSW 2000  
 TEL: (02) 9230 9000  
 FAX: (02) 9230 9001  
 WWW: www.landgate.nsw.gov.au

THIS DOCUMENT IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF MNG CONSULTANTS PTY LTD.



SCALE 1:100 @ A3  
 ALL DIMENSIONS ARE IN METRES

HELD BY LANDGATE IN DIGITAL FORMAT ONLY

FIRST FLOOR PLAN

STRATA PLAN

71830

SHEET 04 OF 07 SHEETS



MNG Ref: 9914 Sp-001c

THE BOUNDARIES OF THE LOTS ON PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE ROOF SURFACES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING. THE BOUNDARIES OF THE COMMON SECTION SURFACES OF THE STRATA VOTER ACT 1975. THE STRATA OF THE BALCONY EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE UPPER SURFACE OF THE SECOND FLOOR BALCONY PROJECTED OF THE LOT ABOVE. WHERE NOT BOUNDED BY WALLS THE INNER FACE OF BALUSTRADES FORMS THE BOUNDARY OF THE BALCONY PART LOT.

ALL WALLS ARE COMMON PROPERTY.  
 ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS UNLESS OTHERWISE STATED.  
 ALL ANGLES ON THE PLAN ARE MULTIPLES OF 45° UNLESS DENIED BY STRUCTURES, PARCEL BOUNDARIES OR OTHERWISE STATED.

S = STORE  
 B = BALCONY

SEE SHEETS 2 OF 7 FOR OTHER PART TO LOTS 3, 5, 7, 9, 11  
 SEE SHEETS 3 OF 7 FOR OTHER PART TO LOTS 3, 6, 8, 10, 11

DRAFT  
 THESE AREAS AND DIMENSIONS  
 ARE SUBJECT TO FINAL SURVEY  
 AND STATE APPROVAL

STRATA PLAN

71830

SHEET 05 OF 07 SHEETS



1918 Ref: 9914 Sup-001d

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE UPPER SURFACE OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UPPER SURFACE OF THE CEILING, AS PROVIDED BY SECTION 171(1) OF THE STRATA TITLE ACT 1975.

THE STRATA OF THE BALCONIES EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE UNDERSIDE OF THE THIRD FLOOR BALCONY PROJECTED OF THE LOT ABOVE.

WHERE NOT INDICATED BY WALLS, THE UPPER FACE OF BALUSTRADES FORMS THE BOUNDARY OF THE BALCONY PART LOT.

ALL WALLS ARE COMMON PROPERTY.

ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS UNLESS OTHERWISE STATED.

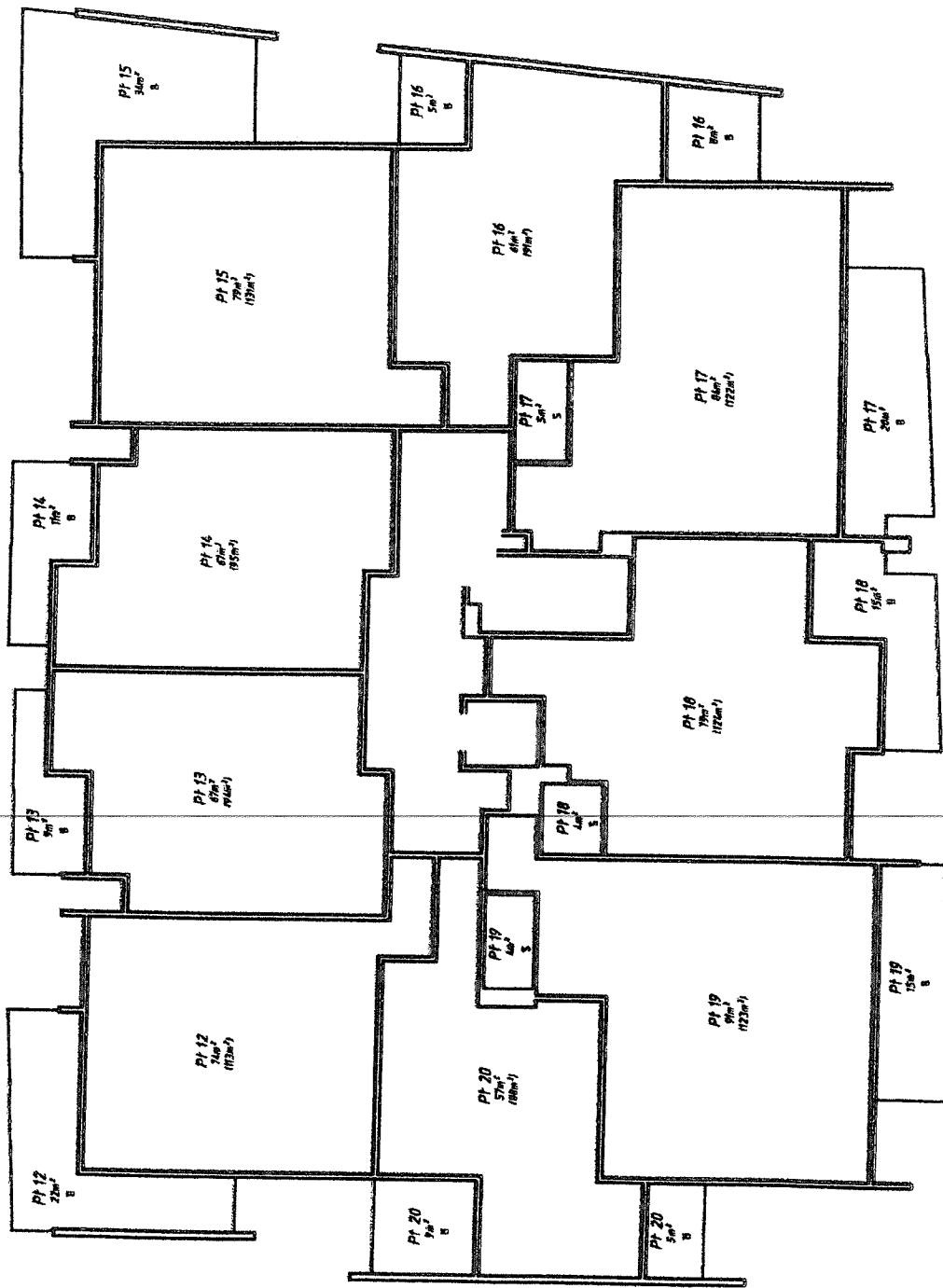
ALL ANGLES ON THE PLAN ARE IN DEGREES OR 45° UNLESS DERIVED BY STRUCTURES, PARCEL BOUNDARIES OR OTHERWISE STATED.

S = STORE

B = BALCONY

SEE SHEETS 7 OF 7 FOR OTHER PARTS TO LOTS 12 - 14, 18, 20  
SEE SHEETS 3 OF 7 FOR OTHER PARTS TO LOTS 16 - 17, 19, 20

SECOND FLOOR PLAN



FOR INFORMATION ONLY  
THIS PLAN IS NOT TO BE USED FOR  
LAW SUITS OR  
LAW ENFORCEMENT  
PURPOSES WITHOUT THE  
APPROVAL OF THE  
SURVEYOR GENERAL  
AND THE LANDS  
DEPARTMENT



HELD BY LANDGATE IN DIGITAL FORMAT ONLY

DRAFT  
ALL AREAS AND DIMENSIONS  
ARE SUBJECT TO FINAL SURVEY  
AND WAPC APPROVAL



STRATA PLAN

71830

SHEET 06 OF 07 SHEETS



MNS Ref: 9910.53p-001d

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS, AND THE BOUNDARIES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE LOWER SURFACE OF THE CEILING, AS PROVIDED BY SECTION 210(4) OF THE STRATA TITLES ACT 1975.

THE STRATUM OF THE BALCONIES EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE UNDERSIDE OF THE PLASTER FLOOR BALCONY PROJECTED OF THE LOT ABOVE.

WHERE NOT DIMENSIONED BY WALLS THE INNER FACE OF BALUSTRADES FORMS THE BOUNDARY OF THE BALCONY PART LOT.

ALL WALLS ARE COMMON PROPERTY

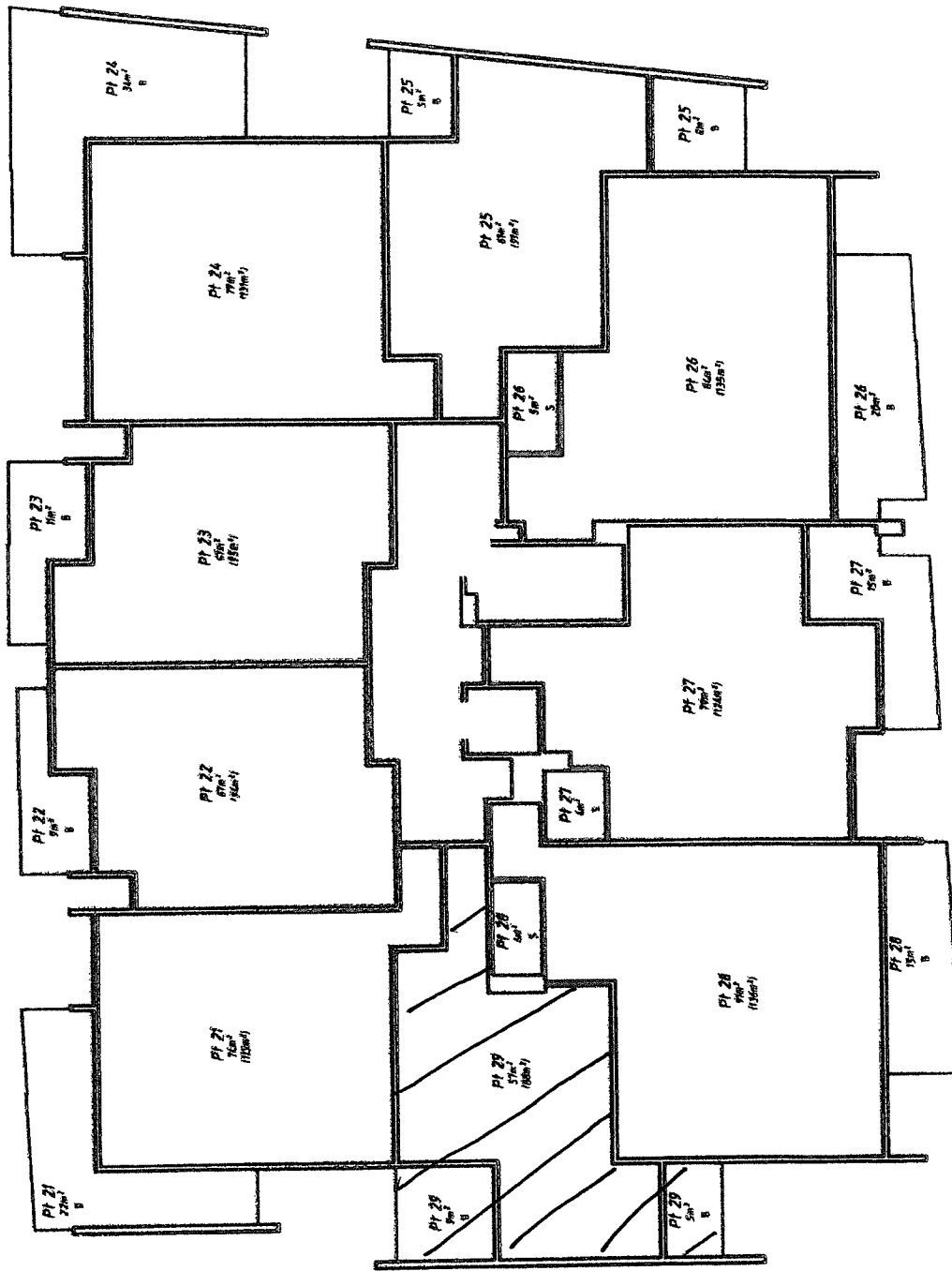
ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS UNLESS OTHERWISE STATED

ALL ANGLES ON THE PLAN ARE 90 DEGREES UNLESS OTHERWISE STATED.

S - STOREY  
B - BALCONY

SEE SHEETS 1 TO 3 FOR OTHER PART TO LOTS 21 - 29  
SEE SHEETS 4 TO 7 FOR OTHER PART TO LOTS 31, 25, 29

THIRD FLOOR PLAN



*The Subject!*  
*[Handwritten signature]*

THIS DOCUMENT ONLY  
TO BE USED FOR THE  
LANDLORD'S FILE



HELD BY LANDGATE IN DIGITAL FORMAT ONLY

DRAFT  
THIS DRAWING AND ANY DIMENSIONS  
ARE SUBJECT TO FINAL SURVEY  
AND PLAT APPROVAL

STRATA PLAN  
71830

SHEET 07 OF 07 SHEETS



MNS Ref: 9914 Spd-0016

FOURTH FLOOR PLAN

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BOLD LINES SHOWN ON THE STRATA PLAN ARE THE SHAPE SURFACE OF THE WALLS. THE UPPER SURFACE OF THE FLOOR AND THE UPPER SURFACE OF THE BALCONY ARE SHOWN BY THE BOLD LINES AS SHOWN BY THE SECTION JOHN OF THE STRATA TITLES ACT 1985.

THE STRATHUM OF THE BALCONIES EXTENDS UP TO THE UPPER SURFACE OF THE BALCONY FLOOR TO THE UNDERFACE OF THE CEILING OR PROJECTIONS THEREOF OF THE RESPECTIVE BUILDING PART LOT.

WHERE NOT BOUNDARY WALLS THE INNER FACE OF BALUSTRADES FORMS THE BOUNDARY OF THE BALCONY PART LOT.

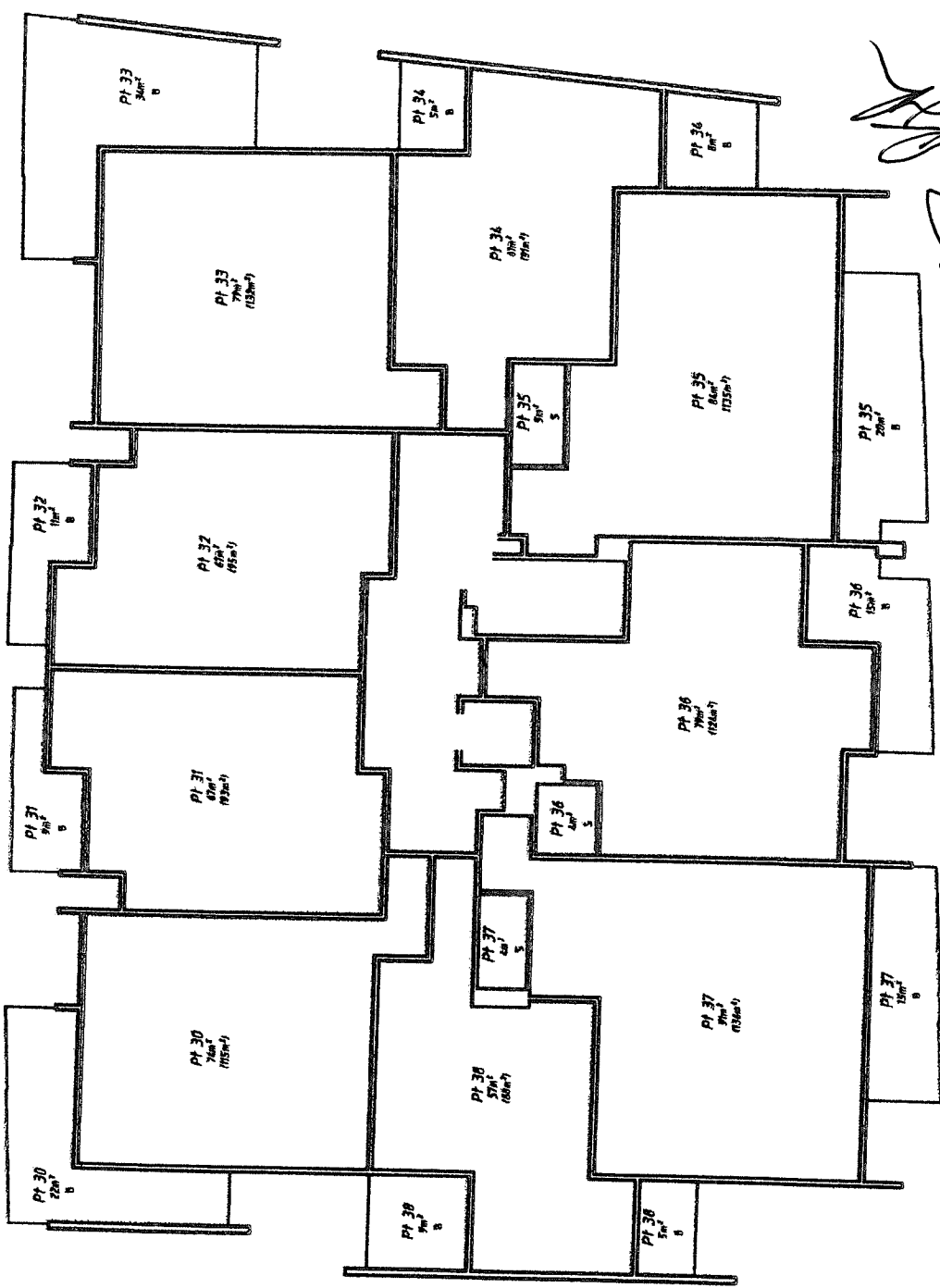
ALL WALLS ARE COMMON PROPERTY.

ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS UNLESS OTHERWISE STATED.

ALL ANGLES ON THE PLAN ARE MULTIPLES OF 45° UNLESS OTHERWISE STATED.

S = STONE  
B = BALCONY

SEE SHEETS 2 OF 7 FOR OTHER PART TO LOTS 34 - 38  
SEE SHEETS 3 OF 7 FOR OTHER PART TO LOTS 30 - 33, 39



*Handwritten initials/signature*



UNLAWFUL TO REPRODUCE OR TRANSMIT IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR.



SCALE 1:100 @ A1  
ALL DISTANCES ARE IN METRES

HELD BY LANDGATE IN DIGITAL FORMAT ONLY

DRAFT  
ALL AREAS AND DIMENSIONS  
ARE SUBJECT TO FINAL SURVEY  
AND WAIPC APPROVAL

Attachment 3 - Proposed Unit Entitlement

Attachment to Annexure C Disclosure Statement – Form 28

Lot number	Unit entitlement	Lot number	Unit entitlement
1	317	20	187
2	315	21	277
3	268	22	263
4	253	23	263
5	253	24	282
6	273	25	194
7	185	26	301
8	279	27	295
9	285	28	308
10	286	29	191
11	182	30	283
12	273	31	268
13	258	32	268
14	258	33	288
15	277	34	199
16	189	35	306
17	284	36	301
18	290	37	314
19	291	38	196
<b>Aggregate Unit Entitlement:</b>		<b>10,000</b>	

*Handwritten initials/signature*

*Handwritten signatures*

***This page has been intentionally left blank***

## Attachment 4 - Management Statement

### Attachment to Annexure C Disclosure Statement – Form 28

*This page has been intentionally left blank*

**FORM 25**

**STRATA TITLES ACT 1985**

**SECTION 5C(1)**

**THE OWNERS OF QUAYHOUSE APARTMENTS**

**STRATA PLAN NO. 71830**

**MANAGEMENT STATEMENT**

(Name of original proprietors of land the subject of the plan)

**OPEN CORPORATION FUNDS MANAGEMENT LIMITED ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust**

(Description of parcel the subject of the Plan)

**Lot 1011 on Deposited Plan 406047, being the whole of the land in Certificate of Title Volume                      Folio                      .**

This Management Statement lodged or to be lodged with a strata plan in respect of the above land sets out the bylaws of the strata company or amendments to the bylaws contained in schedule 1 and schedule 2 of the Strata Titles Act 1985 that are to have effect upon registration of the strata plan.

1. The Schedule 1 Bylaws are amended and repealed or added to as follows:  
The bylaws in Schedule 1 to the Act and numbered 1 to 15 inclusive, as they apply to the scheme referred to in the strata plan are repealed and the Schedule 1 Bylaws numbered 1 to 38 inclusive as appears in the Schedule hereto are adopted.
2. The Schedule 2 Bylaws are amended, repealed or added to as follows:  
The bylaws in Schedule 2 to the Act and numbered 1 to 14 inclusive, as they apply to the scheme referred to in the strata plan are repealed and the Schedule 2 Bylaws numbered 1 to 22 inclusive as appears in the Schedule hereto are adopted.

**Executed by OPEN CORPORATION FUNDS MANAGEMENT LIMITED ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust in accordance with section 127(1) of the Corporations Act 2001 (Cth) by:**

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Full name (print)

\_\_\_\_\_  
Full name (print)

***This page has been intentionally left blank***



CONTENTS

NO.	DESCRIPTION	PAGES
1	Definitions.....	1
2.	Duties of Proprietor, occupiers, etc. ....	3
3.	Constitution of the Council.....	3
4.	Election of council.....	5
5.	Chairman, secretary and treasurer of council.....	6
6.	Chairman, secretary and treasurer of strata company.....	6
7.	Meetings of council.....	7
8.	Powers and duties of secretary of strata company.....	7
9.	Powers and duties of treasurer of strata company.....	8
10.	General meetings of strata company.....	8
11.	Proceedings at general meetings.....	9
12.	Restriction on moving motion or nominating candidate.....	10
13.	Votes of Proprietors.....	10
14.	A proxy need not be a Proprietor.....	10
15.	Common seal.....	10
16.	Use of Premises.....	11
17.	Repair and Maintenance of Premises.....	11
18.	Water Leakage to other lots or common property.....	11
19.	Alterations to Lot.....	12
20.	Exclusive Use.....	13
21.	Individual Air Conditioning Systems.....	14
22.	Blockage of Drainage Pipes.....	15
23.	Proprietor to advise of Defects.....	15
24.	Damage to Common Property.....	15
25.	Instructing Contractors by Proprietors.....	15
26.	Temporary Building.....	16
27.	Floor Loading.....	16
28.	Rules.....	16
29.	Penalty for Breach of Bylaws.....	17
30.	Strata Company Management.....	17
31.	Insurance for legal liability and other insurable risks.....	19
32.	Insurance Rates.....	19
33.	Insurance Excess.....	20
34.	Recovery of Costs by Strata Company.....	20
35.	Security and Fire Safety.....	21
36.	Reserve Fund.....	22
37.	Power of Strata Company Regarding Sub-meters.....	22
38.	Fire Control.....	23

Handwritten signature and initials in the bottom right corner of the page.

**SCHEDULE 1 BY-LAWS**

**1. Definitions**

**1.1** The following words have these meanings in the Schedule 1 Bylaws whether appearing in capitals or not unless the contrary intention appears:

**“Act”** means the Strata Titles Act 1985, as amended;

**“Bylaws”** means the bylaws adopted by the strata company from time to time;

**“Common Property”** has the same meaning as in the Act;

**“Council”** means the Council of the Strata Company established pursuant to the bylaws;

**“Facilities”** means all the facilities in or about the Common Property intended for the use and enjoyment of Proprietors and including but not limited to the swimming pool, barbeque and gymnasium;

**“Landscaping”** means the foliage, trees, shrubs, grass and vegetation treatment to areas of the lots and the parcel used to enhance the appearance of the strata scheme.

**“Fixtures and Fittings”** means any fixtures and fittings in or about a lot;

**“Insured Risk”** means fire, lightning, explosion, aircraft (including articles dropped from aircraft), riots, civil commotion, malicious persons, earthquakes, storm, tempest, floor, bursting and overflowing of water pipes, tanks and other apparatus and impact by road vehicles and such other risks as the strata company may from time to time insure against;

**“Land”** means all the land comprised in the strata plan;

**“Local Authority”** means the local authority as may from time to time have jurisdiction over the scheme;

**“Lot”** or **“lot”** means a strata lot formed upon registration of the strata plan;

**“Original Proprietor”** means the registered proprietor of the land before the scheme was constituted by registration of the strata plan;

**“Proprietor”** means the proprietor from time to time of a lot and the proprietor’s successors in title, personal representatives, permitted assigns and transferees or registered mortgagee in possession;

**“Proprietor’s Invitee”** means each of the proprietor’s agents, contractors, tenants, lessees, licensees, invitees and those persons who at any time are under the control of and in or upon a lot or the common property with the consent (express or implied) of a proprietor;

**“Premises”** means the proprietor’s lot together with the fixtures and fittings and that portion of the common property which is exclusive use property;



**“Residential Lot”** means a lot which is intended for use as a residence;

**“Rules”** means the rules adopted by the strata company from time to time pursuant to bylaw 28 of the Schedule 1 Bylaws;

**“Schedule 1 Bylaws”** means these Schedule 1 Bylaws;

**“Scheme”** means the strata scheme constituted upon registration of the strata plan;

**“Strata Company”** means the strata company constituted by the registration of the strata plan;

**“Strata Company Manager”** means the person who is appointed from time to time as strata company manager pursuant to bylaw 30 of the Schedule 1 Bylaws;

**“Strata Plan”** means the strata plan and any subdivision thereof registered from time to time in respect of the land.

**1.2 Interpretation**

**In the Schedule 1 Bylaws:**

**1.2.1** Reference to any statute or statutory provision includes a reference to:

**1.2.1.1** that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and

**1.2.1.2** all statutory instruments or orders made pursuant to it.

**1.2.2** Words denoting the singular number shall include the plural and vice versa.

**1.2.3** Words denoting any gender include all genders and words denoting persons shall include firms and corporations and vice versa.

**1.2.4** Headings are inserted for convenience only and shall not affect the construction or interpretation of the Schedule 1 Bylaws.

**1.3 Severability**

If any Schedule 1 Bylaw is invalid or unenforceable, then the remaining Schedule 1 Bylaws shall be valid and enforceable.

**1.4 Application**

**The Schedule 1 Bylaws:**

**1.4.1** apply in respect of the common property and all lots; and

**1.4.2** bind a proprietor's invitees.

2. Duties of Proprietor, occupiers, etc.

2.1 A proprietor shall:

- 2.1.1 forthwith carry out all work that may be ordered by any competent public authority or local government in respect of his lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his lot;
- 2.1.2 repair and maintain his lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

2.2 A proprietor shall:

- 2.2.1 notify the strata company forthwith upon any change of ownership, including in the notice an address of the proprietor for service of notices and other documents under the Act; and
- 2.2.2 if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with his lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

2.3 A proprietor, occupier or other resident of a lot shall:

- 2.3.1 use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors, occupiers or residents, or of their visitors; and
- 2.3.2 not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to any occupier of another lot (whether a proprietor or not) or the family of such an occupier;
- 2.3.3 take all reasonable steps to ensure that his visitors do not behave in a manner likely to interfere with the peaceful enjoyment of the proprietor, occupier or other resident of another lot or of any person lawfully using common property; and
- 2.3.4 take all reasonable steps to ensure that his visitors comply with the bylaws of the strata company relating to the parking of motor vehicles.

3. Constitution of the Council

- 3.1 The powers and duties of the strata company shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present shall be competent to exercise all or any of the authorities, functions or powers of the council.
- 3.2 Until the inaugural meeting of the strata company, the original proprietor of all the lots shall constitute the council. So long as the original proprietor is the proprietor of a lot it may nominate one person to be a member of the Council without the necessity of the nominee requiring to nominate for election each year. When the original proprietor no longer is the proprietor of a lot its nominee shall resign and this bylaw shall no longer apply.

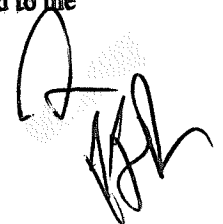


- 3.3 The council shall consist of not less than 3 nor more than 7 proprietors as is determined by the strata company.
- 3.4 The members of the council shall be elected at each annual general meeting of the strata company.
- 3.5 In determining the number of proprietors for the purposes of this bylaw, co-proprietors of a lot or more than one lot shall be deemed to be one proprietor and a person who owns more than one lot shall also be deemed to be one proprietor.
- 3.6 If there are co-proprietors of a lot, one only of the co-proprietors shall be eligible to be, or to be elected, a member of the council and the co-proprietor who is so eligible shall be nominated by his co-proprietors, but, if the co-proprietors fail to agree on a nominee, the co-proprietor who owns the largest share of the lot shall be the nominee or if there is no co-proprietor who owns the largest share of the lot, the co-proprietor whose name appears first in the certificate of title for the lot shall be the nominee.
- 3.7 On an election of members of the council, a proprietor shall have one vote in respect of each lot owned by him.
- 3.8 The strata company may by special resolution remove any member of the council before the expiration of his term of office.
- 3.9 A member of the council vacates his office as a member of the council:
- 3.9.1 if he dies or ceases to be a proprietor or a co-proprietor of a lot;
  - 3.9.2 upon receipt by the strata company of notice in writing of his resignation from the office of member;
  - 3.9.3 at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which he is not elected or re-elected; or
  - 3.9.4 where he is removed from office under bylaw 3.8 of the Schedule 1 Bylaws.
- 3.10 Any casual vacancy on the council may be filled by the remaining members of the council, except that, in a case where a casual vacancy arises because of the removal from office of a member under bylaw 3.8 of the Schedule 1 Bylaws, the strata company may resolve that the casual vacancy shall be filled by the strata company at a general meeting.
- 3.11 Except where the original proprietor constitutes the council, a quorum of the council shall be 2 where the council consists of 3 or 4 members 3, where it consists of 5 or 6 members and 4, where it consists of 7 members.
- 3.12 The continuing members of the council may act notwithstanding any vacancy in the council, but so long as the number of members is reduced below the number fixed by these bylaws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.
- 3.13 All acts done in good faith by the council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, be as valid as if that member had been duly appointed or had duly continued in office.



**4. Election of council**

- 4.1 The procedure for nomination and election of members of a council shall be in accordance with the following rules:
- 4.1.1 the meeting shall determine, in accordance with the requirements of bylaw 3.3 of the Schedule 1 Bylaws the number of persons of whom the council shall consist;
  - 4.1.2 the chairman shall call upon those persons entitled to nominate candidates to nominate candidates for election to the council.
- 4.2 A nomination is ineffective unless supported by the consent of the nominee to his nomination, given:
- 4.2.1 in writing, and furnished to the chairman at the meeting;
  - 4.2.2 orally by nominee who is present at the meeting.
- 4.3 When no further nominations are forthcoming, the chairman:
- 4.3.1 where the number of candidates equals the number of members of the council determined in accordance with the requirements of bylaw 3.3 of the Schedule 1 Bylaws, shall declare those candidates to be elected as members of the council;
  - 4.3.2 where the number of candidates exceeds the number of members of the council as so determined, shall direct that a ballot be held.
- 4.4 If a ballot is to be held, the chairman shall:
- 4.4.1 announce the names of the candidates; and
  - 4.4.2 cause to be furnished to each person present and entitled to vote a blank paper in respect of each lot in respect of which he is entitled to vote for use as a ballot-paper.
- 4.5 A person who is entitled to vote shall complete a valid ballot paper by:
- 4.5.1 writing thereon the names of candidates, equal in number to the number of members of the council so that no name is repeated;
  - 4.5.2 indicating thereon the number of each lot in respect of which his vote is cast and whether he so votes as proprietor or first mortgagee of each such lot or as proxy of the proprietor or first mortgagee;
  - 4.5.3 signing the ballot-paper; and
  - 4.5.4 returning it to the chairman.
- 4.6 The chairman, or a person appointed by him, shall count the votes recorded on valid ballot-papers in favour of each candidate.
- 4.7 Subject to bylaw 4.8 of Schedule 1, candidates, being equal in number to the number of members of the council determined in accordance with bylaw 3.3 of the Schedule 1 Bylaws, who receive the highest numbers of votes shall be declared elected to the



council.

4.8 Where the number of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in bylaw 4.7 of the Schedule 1 Bylaws:

4.8.1 that number equals the number of votes recorded in favour of any other candidate; and

4.8.2 if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election shall be decided by a show of hands of those present and entitled to vote.

5. **Chairman, secretary and treasurer of council**

5.1 The members of a council shall, at the first meeting of the council after they assume office as such members, appoint a chairman, a secretary and a treasurer of the council.

5.2 A person:

5.2.1 shall not be appointed to an office referred to in bylaw 5.1 of the Schedule 1 Bylaws unless he is a member of the council; and

5.2.2 may be appointed to one or more of those offices.

5.3 A person appointed to an office referred to in bylaw 5.1 of the Schedule 1 Bylaws shall hold office until:

5.3.1 he ceases to be a member of the council;

5.3.2 receipt by the strata company of notice in writing of his resignation from that office; or

5.3.3 another person is appointed by the council to hold that office, whichever first happens.

5.4 The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman.

6. **Chairman, secretary and treasurer of strata company**

6.1 Subject to bylaw 6.2 of the Schedule 1 Bylaws the chairman, secretary and treasurer of the council are also respectively the chairman, secretary and treasurer of the strata company.

6.2 A strata company may at a general meeting authorise a person who is not a proprietor to act as the chairman of the strata company for the purposes of that meeting.

6.3 A person appointed under bylaw 6.2 of the Schedule 1 Bylaws may act until the end of the meeting for which he was appointed to act.

**7. Meetings of council**

7.1 At meetings of the council, all matters shall be determined by a simple majority vote.

7.2 The council may meet together for the conduct of business and adjourn and:

7.2.1 otherwise regulate its meetings as it thinks fit, but the council shall meet when any member of the council gives to the other members not less than 7 days' notice of a meeting proposed by him, specifying in the notice the reason for calling the meeting;

7.2.2 subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.

7.3 A member of a council may appoint a proprietor, or an individual authorised under section 45 of the Act by a corporation which is a proprietor, to act in his place as a member of the council at any meeting of the council and any proprietor or individual so appointed shall, when so acting, be deemed to be a member of the council.

7.4 A proprietor or individual may be appointed under bylaw 7.3 of the Schedule 1 Bylaws whether or not he is a member of the council.

7.5 If a person appointed under bylaw 7.3 of the Schedule 1 Bylaws is a member of the council he may, at any meeting of the council, separately vote in his capacity as a member and on behalf of the member in whose place he has been appointed to act.

7.6 The council shall keep minutes of its proceedings.

**8. Powers and duties of secretary of strata company**

8.1 The powers and duties of the secretary of a strata company include:

8.1.1 the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting;

8.1.2 the giving on behalf of the strata company and of the council of the notices required to be given under the Act;

8.1.3 the supply of information on behalf of the strata company in accordance with section 43 (1)(a) and (b) of the Act;

8.1.4 the answering of communications addressed to the strata company;

8.1.5 the calling of nominations of candidates for election as members of the council; and

8.1.6 subject to sections 49 and 103 of the Act the convening of meetings of the strata company and of the council.





**9. Powers and duties of treasurer of strata company**

**9.1 The powers and duties of the treasurer of a strata company include:**

- 9.1.1 the notifying of proprietors of any contributions levied pursuant to the Act;
- 9.1.2 the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company;
- 9.1.3 the preparation of any certificate applied for under section 43 of the Act; and
- 9.1.4 the keeping of the books of account referred to in section 35(1) (f) of the Act and the preparation of the statement of accounts referred to in section 35 (1) (g) of the Act.

**10. General meetings of strata company**

- 10.1 General meetings of the strata company shall be held once in each year and so that not more than 15 months shall elapse between the date of one annual general meeting and that of the next.
- 10.2 All general meetings other than the annual general meeting shall be called extraordinary general meetings.
- 10.3 The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to a quarter or more of the aggregate unit entitlement of the lots convene an extraordinary general meeting.
- 10.4 If the council does not within 21 days after the date of the making of a requisition under the bylaw 10.3 of the Schedule 1 Bylaws proceed to convene an extraordinary general meeting, the requisitionists, or any of them representing more than one-quarter of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene an extraordinary general meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date on which the requisition was made.
- 10.5 Not less than 14 days' notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of that business, shall be given to all proprietors and registered first mortgagees who have notified their interests to the strata company, but accidental omission to give the notice to any proprietor or to any registered first mortgagee or non-receipt of the notice by any proprietor or by any registered first mortgagee does not invalidate any proceedings at any such meeting.
- 10.6 If a proprietor gives notice in writing to the secretary of an item of business that the proprietor requires to be included on the agenda for the next general meeting of the strata company, the secretary shall include that item on the agenda accordingly and shall give notice of that item as an item of special business in accordance with bylaw 10.5 of the Schedule 1 Bylaws.



**11. Proceedings at general meetings**

- 11.1 All business shall be deemed special that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.
- 11.2 Except as otherwise provided in these bylaws, no business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- 11.3 If within half an hour from the time appointed for a general meeting, one half of those entitled to vote, present in person or by duly appointed proxy, vote in support of the general meeting proceeding, this will constitute a quorum and the general meeting shall be properly constituted.
- 11.4 If within half an hour from the time appointed for a general meeting those entitled to vote, present in person or by duly appointed proxy, vote against the general meeting proceeding, the meeting, if convened upon the requisition of proprietors, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons entitled to vote and present constitute a quorum.
- 11.5 The chairman, may with the consent of the meeting, adjourn any general meeting from time to time and from place to place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 11.6 All resolutions must be proposed by a proprietor or his or her duly appointed proxy and seconded by another proprietor or his or her duly appointed proxy.
- 11.7 Except where otherwise required by or under the Act, resolutions may be passed at a general meeting by a simple majority vote.
- 11.8 At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy.
- 11.9 Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- 11.10 A demand for a poll may be withdrawn.
- 11.11 A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
- 11.12 In the case of equality in the votes whether on a show of hands or on a poll, the question is determined in the negative.



**12. Restriction on moving motion or nominating candidate**

A person is not entitled to move a motion at a general meeting or to nominate a candidate for election as a member of the council unless the person is entitled to vote on the motion or at the election.

**13. Votes of Proprietors**

13.1 On a show of hands each proprietor has one vote.

13.2 On a poll the proprietors have the same number of votes as the unit entitlements of their respective lots.

13.3 On a show of hands or on a poll votes may be given either personally or by duly appointed proxy.

13.4 An instrument appointing a proxy shall be in writing under the hand of the appointee or his attorney and may be either general or for a particular meeting.

**14. A proxy need not be a Proprietor.**

14.1 Except in cases where by or under the Act a unanimous resolution or resolution without dissent is required, no proprietor is entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid and any other moneys recoverable under the Act by the strata company from him at the date of the notice given to proprietors of the meeting have been duly paid before the commencement of the meeting.

14.2 Co-proprietors may vote by proxy jointly appointed by them and in the absence of such a proxy are not entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act.

14.3 On any poll each co-proprietor is entitled to such part of the vote applicable to a lot as is proportionate to his interest in the lot.

14.3.1 The joint proxy (if any) on a poll has a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.

**15. Common seal**

15.1 The common seal of the strata company shall at no time be used except by authority of the council previously given and in the presence of the members of the council or at least 2 members of the council, who shall sign every instrument to which the seal is affixed, but where there is only one member of the strata company his signature shall be sufficient for the purpose of the Schedule 1 Bylaws.

15.2 The council shall make provision for the safe custody of the common seal.



**16. Use of Premises**

**16.1 A proprietor of a lot may:**

**16.1.1 grant occupancy rights in respect of his lot to tenants;**

**16.1.2 conduct business from his lot so long as:**

**16.1.2.1 the conduct of the business from the lot does not breach any local authority bylaw or regulations;**

**16.1.2.2 the conduct of the business does not cause any inconvenience to the proprietors of other lots;**

**16.2 If a proprietor grants occupancy rights in respect of his lot he shall:**

**16.2.1 promptly provide the council with the full name of each occupier;**

**16.2.2 give each occupier a copy of the bylaws and the rules (if any) at the commencement of the occupation; and**

**16.2.3 procure that the occupancy agreement contains a provision to the effect that the occupier will comply with the bylaws and the rules and that any breach thereof will constitute a breach of the occupancy agreement which will entitle the proprietor to terminate the occupancy agreement with the occupier.**

**17. Repair and Maintenance of Premises**

**17.1 A proprietor shall at the proprietor's cost:**

**17.1.1 maintain his premises in a good state of repair and condition;**

**17.1.2 maintain his premises in a clean condition free from all vermin and insects;**

**17.1.3 replace in a timely fashion all those parts of his premises which are beyond repair or which may become a nuisance or a hazard.**

**18. Water Leakage to other lots or common property**

**18.1 It is the responsibility of the registered proprietor or occupier of a lot to ensure that all wet areas, such as bathrooms, ensuites, toilets, laundries, kitchens and balconies, contained within the lot or lots of which they are the registered proprietor or occupier are maintained in a proper sealed manner so as to prevent the leakage, seepage or transference of any water or other liquid to any part of the common property, other than waste pipes provided for the disposal of such water or liquid, or to any other lot or part of the building.**



- 18.2 Should any leakage, seepage or transference of any water or liquid from the wet areas of the lot or lots, to any part of common property or the building occur it is the responsibility of the registered proprietor to rectify such leakage, seepage or transference of water or liquid and the cost of such rectification shall be the responsibility of the registered proprietor of the lot or lots from which the liquid seepage or transference has occurred.
- 18.3 Should any leakage, seepage or transference of any water or liquid from the wet areas of a lot or lots to another lot or lots, any part of the common property or the building occur the strata company shall give notice, in writing, to the registered proprietor of the lot or lots from which the leakage, seepage or transference originates to rectify such leakage, seepage or transference.
- 18.4 Should the registered proprietor of the offending lot or lots not within a time specified by the strata company for the rectification to be carried out, carry out such works as may be required, then the strata company may in accordance with section 38 and 39 to the Act employ whatever means necessary to rectify such leakage, seepage or transference.
- 18.5 Should the strata company take action in accordance with bylaw 18.4 then any and all costs incurred by the strata company in rectifying such leakage, seepage or transference shall be payable by the registered proprietor of the offending lot or lots to the strata company and may be recovered by the strata company in accordance with section 38 to the Act.
- 18.6 Should any leakage, seepage or transference of water or liquid be found to be due to a fault or defect in any part of the common property then this by-law will have no effect other than to those powers conferred on the strata company pursuant to sections 38 and 39 to the Act.
19. **Alterations to Lot**
- 19.1 A proprietor shall not commence any structural alterations building or associated works of any kind to his lot before he has:
- 19.1.1 obtained all the necessary approvals and permits of the local authority;
- 19.1.2 obtained the consent of the strata company if the structural alterations are prescribed improvements within the meaning of section 7 of the Act;
- 19.1.3 given to the strata company at least 14 days written notice of the proposed structural alterations and the date that work is to commence and true and complete copies of all relevant plans and specifications in respect thereto and the approvals and permits obtained from the local authority pursuant to bylaw 19.1.1 of the Schedule 1 Bylaws;
- 19.1.4 indemnified the strata company in respect of any cost, expense or liability that may be incurred by the strata company consequent upon the proprietor undertaking the structural alterations, building or associated works which indemnity shall be in writing in a form reasonably required by the strata company and prepared and stamped at the cost of the proprietor.
- 19.2 In causing or allowing any structural building alterations or associated works of any



kind to be carried out on his lot, a proprietor shall ensure:

- 19.2.1 that all tradesman's vehicles are parked, stored or kept within that part of the proprietor's lot intended for use as a car parking bay;
- 19.2.2 that no refuse, rubbish, trash or building materials are stored on or within any part of the common property;
- 19.2.3 that no security door or gate within the scheme remains open while the works are carried out;
- 19.2.4 that any common property damaged as a result of conducting the works is cleaned and restored to the same state and condition as it was prior to the works commencing;
- 19.2.5 that access to or egress from the proprietor's lot by all tradesmen bringing materials to the lot for the purpose of carrying out the works is pre-arranged with the caretaker or, in the absence of the caretaker, the strata company manager;
- 19.2.6 that no noxious or offensive activity shall be carried on upon his lot between the hours of 5:00pm and 8:00 a.m. or at any time on a Saturday or Sunday nor shall anything be done thereon which may be or may become an annoyance or nuisance to the proprietor's of other lots or which shall in any way interfere with the quiet enjoyment of other proprietors and without limiting the generality of the foregoing no mechanical or pneumatic tools shall be used in the performance of the works during the hours hereinbefore defined in this bylaw;
- 19.2.7 that all works are carried out in an enclosed environment so as to prevent the escape of dust, debris and other materials from the lot.

## 20. Exclusive Use

- 20.1 In this Bylaw "Exclusive Use Property" means every portion of common property comprising:
  - 20.1.1 decorative fixtures and fittings including but not limited to wall tiles, floor tiles, doors, door handles and locks, light fittings, windows and plate glass and screens, awnings and louvers which are appurtenant to a proprietor's lot;
  - 20.1.2 the upper surface of the slab to a depth of three (3) centimetres; and
  - 20.1.3 that portion of the common property required for an air conditioning system approved by the strata company in accordance with bylaw 21 of the Schedule 1 Bylaws.
- 20.2 The strata company may grant to each proprietor who signs a written consent form reasonably required by the strata company exclusive use of the exclusive use property relevant to the proprietor's lot.
- 20.3 The costs of any repairs, replacements or making good of any damage to any portion of the common property over which these rights of exclusive use and enjoyment have been granted that may become necessary due to the maintenance, repair, replacement

or removal of any attachment, installation of any equipment or modification to the building shall be the sole responsibility of the registered proprietor of the relevant lot.

- 20.4 The strata company may withdraw the exclusive use rights or any part thereof described in this bylaw 20 of the Schedule 1 Bylaws if seven (7) days after service of a written notice from the strata company a proprietor fails to maintain and repair or replace the exclusive use property in accordance with bylaw 17 of this Schedule 1 Bylaws or fails to remove an air conditioning system in accordance with bylaw 20 of this Schedule 1 Bylaws.
- 20.5 Should a proprietor fail to comply with a notice served by the strata company pursuant to bylaw 20.3 of this Schedule 1 Bylaws then the strata company may at the proprietor's cost enter the proprietor's lot or his premises for the purpose of maintaining and repairing or replacing the proprietor's exclusive use property.

**21. Individual Air Conditioning Systems**

- 21.1 No proprietor shall affix any air conditioning system without the prior written approval of the Council which approval can be withheld if, in the sole opinion of the Council, the proposed air conditioning system is or is likely to be either:
- 21.1.1 so noisy as to cause a disturbance to adjoining proprietors;
- 21.1.2 of such a size and colour as not to be in harmony with the external appearance of the Scheme;
- 21.1.3 does not provide adequate drainage; or
- 21.1.4 is mounted in a position that may cause visual disturbance.

This bylaw does not relate to any air conditioning system installed or intended to be installed by the original proprietor.

- 21.2 If an air conditioning system condenser is to be located on a balcony and within one (1) metre of the balcony balustrade then the condenser must be installed in such a manner that there is no foothold between 150mm and 760mm above the balcony floor.
- 21.3 Without prejudice to the generality of bylaw 21.1 in the Schedule 1 Bylaws in the event of the air conditioning system or any part thereof becoming unsafe or deteriorating, the proprietor shall within seven (7) days of service of a written notice from the strata company either:
- 21.3.1 remove the air conditioning system and reinstate and restore any common property to the same state and condition as existed at the time the air conditioning system was installed; or
- 21.3.2 subject to complying with bylaws 20 and 21 of the Schedule 1 Bylaws replace the air conditioning system.
- 21.4 Should a proprietor:
- 21.4.1 fail to repair and maintain the air conditioning system pursuant to bylaw 17 of the Schedule 1 Bylaws; or

- 21.4.2 fail to remove the air conditioning system after receiving written notice from the strata company pursuant to bylaw 19.3 of the Schedule 1 Bylaws, then the strata company may enter the proprietor's lot or his premises; and
- 21.4.3 repair and maintain the air conditioning system at the cost of the proprietor; or
- 21.4.4 remove the air conditioning system and reinstate and restore the common property at the cost of the proprietor and withdraw the exclusive use rights granted to a proprietor over that portion of the common property required for the air conditioning system granted pursuant to this bylaw 21 of the Schedule 1 Bylaws.

## 22. Blockage of Drainage Pipes

- 22.1 The toilets and other water apparatus including waste pipes and drains shall not be used for any purpose other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance shall be deposited therein.
- 22.2 Any cost incurred by the strata company in repairing any damage or blockage resulting to such toilets, water apparatus, waste pipes and drains caused by a breach of bylaw 22.1 of the Schedule 1 Bylaws shall be borne by the proprietor whether the same is caused by his own actions or those of the proprietor's invitees.

## 23. Proprietor to advise of Defects

- 23.1 A proprietor shall give the caretaker or, in the absence of the caretaker, the strata company manager prompt notice of any accident to or defect in or want of repair in respect to the supply of sewer, water, gas, electricity, telephone or any other service situated within his lot or premises or the common property which comes to his knowledge.
- 23.2 The strata company shall have authority to enter upon any premises at all reasonable times, by its agents or contractors, having regard to the urgency involved, to carry out such repairs or renovations to common property as may be necessary.

## 24. Damage to Common Property

- 24.1 Should any damage be caused to any part of the common property by any proprietor or proprietor's invitees then the proprietor shall be responsible for the cost to the strata company of making good such damage.

## 25. Instructing Contractors by Proprietors

- 25.1 Neither a proprietor nor a proprietor's invitee shall instruct any contractor or workmen employed by the strata company unless authorised to do so by the caretaker or in the absence of the caretaker the strata company manager.



- 25.2 If a proprietor or proprietor's invitees instructs a contractor or workmen without authorisation the proprietor shall be responsible for the payment to the strata company of any additional cost or expense to the strata company arising from that instruction and shall be further responsible for the cost of removing or altering any work performed by the contractor or workmen pursuant to that instruction.

**26. Temporary Building**

26.1 No temporary outbuilding, shed or other building or improvement of any kind shall be placed upon any part of the scheme, except with the prior written approval of the strata company.

26.2 No garage, trailer, camper, motor home or recreational vehicle shall be used as a temporary or permanent residence within the scheme.

**27. Floor Loading**

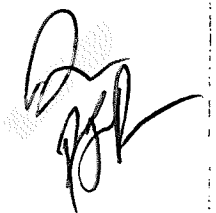
27.1 Neither a proprietor nor a proprietor's invitee shall do any act or thing which may result in excessive stress or floor loading to any part of a lot or the premises.

**28. Rules**

28.1 The strata company may from time to time make, withdraw or amend rules for the use and management of the common property including but not limited to the management or control of:

- 28.1.1 the affixing of external aerials;
- 28.1.2 visitors' vehicle parking;
- 28.1.3 security;
- 28.1.4 use of stairways and passageways;
- 28.1.5 approval for keeping pets;
- 28.1.6 rubbish collection;
- 28.1.7 advertising and signs;
- 28.1.8 charges relating to the security system and security keys;
- 28.1.9 use of the Facilities.

A proprietor and a proprietor's invitees will comply at all times with the rules.



**29. Penalty for Breach of Bylaws**

- 29.1 Any person who breaches Schedule 1 By-Laws is, subject to section 42A(2) of the Act, liable to pay a penalty of \$500.00 or such other amount as is prescribed by the Act from time to time.

**30. Strata Company Management**

- 30.1 The strata company shall at all times employ the services of a strata company manager for the purposes of administering the affairs of the strata company. The strata company manager's agreement will (amongst other things) delegate the responsibilities and obligations of the strata company under the Strata Titles Act 1985 to the strata manager.

**30.2 The strata company manager must:**

- 30.2.1 be a Certified Strata Community Manager of the Strata Community Australia (WA);
- 30.2.2 have not less than five years strata management experience;
- 30.2.3 hold not less than \$5 million of professional indemnity insurance;
- 30.2.4 hold all funds belonging to the strata company in a trust; and
- 30.2.5 seek professional advice involving matters that concern the strata company that are not within the strata manager's area of expertise.

- 30.3 Unless otherwise provided in the bylaws the strata company may delegate (other than the power of delegation) all of the strata company's power, authorities, duties and functions to the strata company manager (to the extent that the same are capable of being delegated).

**30.4 The strata company manager shall have the following powers, authorities, duties and functions, in addition to those conferred at a General Meeting of the strata company:**

- 30.4.1 to arrange as required by the strata company normal day to day maintenance, repair and replacement of any personal property vested in the strata company, but excluding any special attendance at the land and common property for this purpose;
- 30.4.2 to view the improvements within the scheme on at least 1 occasion in each year;
- 30.4.3 arrange and attend the annual general meeting during any yearly period;
- 30.4.4 act upon request by, or in the absence of, the chairman:
- 30.4.4.1 as Chairman of any meeting of the strata company; or
- 30.4.4.2 as Chairman of any meeting of the council if so agreed by all the members of the council present at the meeting;

- 30.4.4.3 to ensure that insurances are effected and promptly renewed in accordance with the Act and make all necessary insurance claims;
- 30.4.5 as agent for the strata company to engage or employ contractors the caretaker and any employees authorised by the strata company to be employed, and to keep any wage, income tax or other records required by any law from time to time in respect of any caretaker, employees or contractors of the strata company and complete and submit any returns in respect thereof;
- 30.4.6 to arrange for the preparation and submission of income tax returns on behalf of the strata company and accept appointment as the public officer of the strata company;
- 30.4.7 to disburse monies in accordance with the Act and the terms of the bylaws;
- 30.4.8 to maintain the records of the strata company required by law;
- 30.4.9 to prepare as necessary budgets and reports and keep all records necessary to facilitate such preparation;
- 30.4.10 to provide, so far as is reasonable, any assistance to the strata company and the members of its council;
- 30.4.11 to take possession of and care for the records and documents of the strata company;
- 30.4.12 implement credit control procedures in respect of maintenance contributions and advise regarding recovery;
- 30.4.13 have custody of the common seal and attest its affixation for the purpose of exercising or performing any of the powers, authorities, duties or functions conferred or imposed by the Schedule 1 Bylaws;
- 30.4.14 generally implement the decisions of the strata company and its council;
- 30.4.15 to make applications and submissions to the State Administrative Tribunal and the local authority on behalf of the strata company;
- 30.4.16 to attend on behalf of the strata company and to the extent permitted by law to represent the strata company at any hearing conducted by a State Administrative Tribunal or any tribunal or court;
- 30.4.17 to instruct Solicitors, attend conferences and generally supervise legal proceedings involving the strata company;
- 30.4.18 to arrange other than normal day to day maintenance, repair and replacement of the property vested in the strata company;
- 30.4.19 to liaise with architects, engineers, surveyors, builders and the like in relation to any work carried out on the land;
- 30.4.20 on behalf of the council the power and authority to approve suitable signs that shall be in keeping and harmonious with the scheme.



- 30.5 The strata company may only terminate an agreement with a strata company manager by a majority resolution passed at a duly convened general meeting of the strata company and must have prior to such majority resolution or in the same resolution to terminate such agreement have resolved by a majority at a duly convened general meeting of the strata company to enter into a further agreement with another strata company manager that shall contain the same terms, conditions, delegation of responsibilities, duties and powers of the strata company as where contained in the previous strata company agreement.
31. **Insurance for legal liability and other insurable risks**
- 31.1 The strata company shall effect and maintain insurance in respect of:
- 31.1.1 damage to property, death, or bodily injury for which a proprietor could become liable for not less than \$10,000,000;
- 31.1.2 the buildings on the parcel, any common property improvements and any personal property of the strata company to the replacement value against fire, storm and tempest, lightning, explosion and earthquake and for the purposes of this by-law replacement value will be the amount determined by an independent quantity surveyor or licensed valuer engaged for that purpose at intervals not exceeding five years or the sum suggested by the insurer whichever is the higher sum;
- 31.1.3 any occurrence against which it is required by law to insure, including, where applicable, insurance against liability to pay compensation under the Workers' Compensation and Injury Management Act 1981 (WA); and
- 31.1.4 such other risks as the strata company may from time to time determine.
- 31.2 For the avoidance of doubt, the strata company does not otherwise effect insurance for any insurable risks within or related to a lot.
32. **Insurance Rates**
- 32.1 Nothing shall be done or kept on a lot or within the scheme which will increase the rate of insurance on any property insured by the strata company without the approval of the council nor shall anything be done or kept on a lot or within the scheme which would result in the cancellation of insurance on any property insured by the strata company or which would be in violation of any law.
- 32.2 If by reason of any machine, appliance or other thing brought upon or installed upon a lot or the scheme by any proprietor the amount of any insurance premium is increased then the amount of such increase shall be paid by and apportioned between those proprietors having possession or control or the use or benefit of any such machines appliances or things.



**33. Insurance Excess**

- 33.1 The proprietor will be liable in the event of an insurance claim for excess as a consequence of a proprietor, occupier, invitee, contractor, subcontractor, visitor or resident of a lot relating to their own lot or damage caused to another lot as a result of their lot (the Insurance Excess). The Insurance Excess shall be levied to the proprietor of the lot as if levied in accordance with section 36 and 55A of the Act.
- 33.2 Where an Insurance Excess is endorsed on the insurance policy for the strata company any claim made by a proprietor whereby an excess is applied by the strata company's insurers in respect of that claim, then that excess shall be recovered from the respective proprietor.
- 33.3 The proprietor will be liable for Insurance Excess arising from damage, but not limited to water damage, incurred in an adjoining or adjacent lot or common property as a result of a lack of repair and maintenance including but not limited to the tiled areas or taps left on causing accidental flooding and/or as a result of high pressure cleaning of tiles, inside the apartment or on the part lot balcony and car bay lot and/or lots.
- 33.4 The proprietor of a lot subject to an insurance claim due to an Act of God or Tempest that has occurred damaging multiple units (more than 1), or the common property, the Insurance Excess will be deemed to be common and the cost of which will be borne by the strata company.

**34. Recovery of Costs by Strata Company**

- 34.1 If the proprietor of a lot refuses or fails to pay to the strata company any amount due for levies (whether under section 36(1) or section 36(2) of the Act) or any other amount due, the strata company may take such lawful action as it deems necessary to recover that amount from the proprietor (including proceedings in any Court of competent jurisdiction). All costs incurred in taking such action including, but not limited to:
- 34.1.1 strata company manager's costs, pursuant to the strata management contract or as otherwise determined by the strata company;
  - 34.1.2 legal costs on an indemnity basis; and
  - 34.1.3 debt recovery agency's costs, are an administrative expense of the strata company and become a debt due and payable by the proprietor to the strata company, and shall be recoverable by the strata company when recovering due levies.
- 34.2 It shall be competent for the strata company in proceedings commenced in any Court of competent jurisdiction to recover due levies, to claim in such proceedings all costs incurred in taking such action including costs incurred up to entry of judgment.
- 34.3 The quantum of legal costs incurred in taking action to recover due levies, shall be the costs payable by the strata company to its solicitors. The strata company shall within seven days of receiving an invoice for legal fees forward by pre-paid post to the proprietor in respect of whom the legal fees have been incurred a copy of that invoice. Upon receipt of that or upon the date when the invoice would have been received in



the normal course of mail the proprietor shall forthwith make payment thereof to the strata company.

- 34.4 A certificate from the solicitors retained by the strata company, stating the amount of costs incurred in prosecuting an action to recover due levies from a proprietor, shall be conclusive evidence of the amount due and payable by the proprietor for which amount judgment may be entered against the proprietor in any Court of competent jurisdiction.
- 34.5 Simple interest at the prescribed rate shall be payable by the proprietor to the strata company on costs incurred by the strata company in taking action (including proceedings in any Court of competent jurisdiction) to recover due levies. Such interest shall commence and be payable from the date a copy of the invoice would have been received in the mail as required by this bylaw and shall cease to be payable upon payment of all costs and interest accrued thereon. Interest upon interest shall not be charged or accrue.
- 34.6 In the event that the strata company does not receive payment of costs incurred when payment of due levies is received from a proprietor and judgment for those costs has not been obtained from a Court of competent jurisdiction then those costs and simple interest thereon at the prescribed rate, being an administrative expense of the strata company shall be levied in accordance with section 36(1)(c)(ii) of the Act on the proprietor in respect of whom the cost was incurred, and if unpaid shall be recoverable as an unpaid levy in accordance with this bylaw.
35. **Security and Fire Safety**
- 35.1 A proprietor must not do or permit anything to be done which may prejudice the security or safety of the Building or the common property and, in particular, must ensure that all fire and security doors are kept locked or secure or in an operational state when not in immediate use.
- 35.2 The Strata Company may restrict access to:
- 46.2.1 the car parking areas by means of a proximity card reader system; and
- 46.2.2 parts of the Building by means of a proximity card reader system or security key, for the purposes of securing the Building and the common property from intruders and to preserve the safety of the Building from fire or other hazards.
- 35.3 A proprietor is responsible in making available security access devices to any other person and must take all reasonable steps to ensure that any person provided with security access complies with this Bylaw.
- 35.4 No proprietor or person in possession of security devices may duplicate or permit the duplication of such devices and will take all reasonable steps to prevent their loss or transfer.
- 35.5 A proprietor or resident of a lot must immediately notify the Strata Manager if any security device is lost or destroyed.
- 35.6 A proprietor or proprietor's invitee shall not:

- 35.6.1 interfere with any safety equipment;
  - 35.6.2 obstruct any fire escape or fire stair well; or
  - 35.6.3 use any fire safety equipment except in the case of an emergency and then in accordance with the purpose for which the fire safety equipment is designed.
- 35.7 A proprietor or resident of a lot will be liable for any fine incurred by the strata company where the proprietor has directly caused or attributed to the false activation of the fire alarm, such causes being, but not limited to, burnt toast, aerosol sprays, dirty smoke detectors, workmen/cleaners, steam, cigarettes, candles, incorrect detectors installed and "Break Glass" alarm damage.
36. **Reserve Fund**
- 36.1 The strata company will establish a reserve fund for the purposes of accumulating funds to meet contingent expenses other than those of a routine nature and other major expenses of the strata company likely to arise in the future.
- 36.2 The amount to be raised for the reserve fund shall be determined by the strata company from time to time but in any event shall not be less in any year that a sum equal to 0.20% of the insurable value of the Building.
37. **Power of Strata Company Regarding Sub-meters**
- 37.1 Where the supply of water, gas or electricity to a lot is regulated by means of a sub-meter, the strata company may require the proprietor or other occupier of the lot to pay the strata company by way of security for the payment of charges arising through the sub-meter an amount, determined by the Council from time to time.
- 37.2 If the proprietor or other occupier of a lot in respect of which a sub-meter is used for the supply of water, gas or electricity refuses or fails to pay any charges due for the supply of water, gas or electricity to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that proprietor or occupier under this Bylaw, including any interest that may have accrued in respect of that amount.
- 37.3 Where a person who has paid an amount under this Bylaw to a strata company satisfied the strata company that he is no longer the proprietor or occupier of a lot and that the strata company no longer has any liability or contingent liability for the supply of water, gas or electricity to that lot during the period when that person was a proprietor or occupier of the lot, the strata company shall refund to that person the amount then held on his behalf under this Bylaw.



### 38. Fire Control

In this Fire Control by-law:

"Fire safety equipment" means the fire and smoke detection devices, water sprinklers, fire alarms, fire proof doors, fire hose and/or fire extinguisher installed in the lots and common property in accordance with legislative requirements or in the interest of safety of the strata company.

"Call-out" means the activation of smoke or fire alarms forming Fire safety equipment resulting in the attendance of an authorised contractor or the Fire Brigade to investigate the cause and/or any consequential attendance by the local authority and/or prescribed authority.

- 38.1 To enable the strata company to fulfil its obligations to a prescribed authority in respect of fire safety, each proprietor, owner and/or occupier acknowledges and authorises the strata company to give the name of the occupiers of each lot to the prescribed fire safety officer should that information be sought in relation to fire safety issues at the strata complex.
- 38.2 The proprietor, occupier, resident and/or invitee of a lot must not:
- 38.2.1 use or interfere with any Fire safety equipment anywhere in the strata complex or the common property except in the case of an emergency;
  - 38.2.2 replace any smoke alarm in the lot;
  - 38.2.3 permit the lot smoke alarm to fall into disrepair or become or remain non-operational;
  - 38.2.4 hinder or delay any inspection of the lot smoke alarm and Fire safety equipment in the lot on request by the strata company;
  - 38.2.5 obstruct any fire stairs or fire escape;
  - 38.2.6 place any items in the fire stairs or fire escape;
  - 38.2.7 do anything to render any smoke alarm and/or Fire safety equipment ineffective;
  - 38.2.8 leave open fire rated doors of a lot for any reason.
- 38.3 Where Fire safety equipment or human error has triggered an alarm in relation to a lot and:
- 38.3.1 a Call-out has occurred;
  - 38.3.2 it is a false alarm; and
  - 38.3.3 the Fire safety equipment has not malfunctioned,
- the proprietor acknowledges and agrees to indemnify the strata company for any charges (including any fines) associated with that Call-out.
- 38.4 The proprietor of a lot remains solely responsible for any fines, charges, penalties imposed on the strata company as a result of the contravening lot, proprietor, owner, occupier and/or invitee of the lot, by any relevant prescribed authority and/or



authorised contractor for the failure to comply with its requirements and the proprietor must indemnify the strata company from all claims, losses, expenses and costs incurred or damage to property or person, suffered arising from:-

38.4.1 failure to comply with the prescribed authority and/or authorised contractor requirements and this by-law; and


38.4.2 the exercise of the strata company's rights and duties under this bylaw,

and must pay the costs on demand and failing payment, may be recovered by the strata company as a debt in a court of the appropriate jurisdiction.



## CONTENTS

NO.	DESCRIPTION	PAGES
1	Definitions.....	1
2	Behaviour.....	3
3	Children playing upon common property.....	4
4	Vehicles.....	4
5	Responsibility for Proprietor's Invitees.....	5
6	Garbage Disposal.....	5
7	Signs.....	5
8	Antenna.....	6
9	Pets.....	6
10.	Moving Furniture.....	9
11.	Floor Coverings.....	9
12.	Windows.....	9
13.	Drying.....	10
14.	Storage of inflammable liquids.....	10
15.	Use of Car Bays.....	10
16.	Penalty for Breach of Bylaws.....	11
17.	Smoking.....	11
18.	Visitor Parking.....	11
20.	Use of Swimming Pool.....	12
21.	Common Centre Facilities.....	14
22.	Responsibility, Risk and Indemnities.....	15



## SCHEDULE 2

### BY-LAWS

#### 1. Definitions

##### 1.1 The following words have these meanings in the Schedule 2 Bylaws whether appearing in capitals or not unless the contrary intention appears:

“Act” means the Strata Titles Act 1985, as amended;

“Bylaws” means the bylaws adopted by the strata company from time to time;

“Common Property” has the same meaning as in the Act;

“Council” means the Council of the Strata Company established pursuant to the bylaws;

“Facilities” means all the facilities in or about the Common Property intended for the use and enjoyment of Proprietors and including but not limited to the swimming pool, barbeque and gymnasium;

“Landscaping” means the foliage, trees, shrubs, grass and vegetation treatment to areas of the lots and the parcel used to enhance the appearance of the strata scheme.

“Fixtures and Fittings” means any fixtures and fittings in or about a lot;

“Insured Risk” means fire, lightning, explosion, aircraft (including articles dropped from aircraft), riots, civil commotion, malicious persons, earthquakes, storm, tempest, flood, bursting and overflowing of water pipes, tanks and other apparatus and impact by road vehicles and such other risks as the strata company may from time to time insure against;

“Land” means all the land comprised in the strata plan;

“Local Authority” means the local authority as may from time to time have jurisdiction over the scheme;

“Lot” or “lot” means a strata lot formed upon registration of the strata plan;

“Original Proprietor” means the registered proprietor of the land before the scheme was constituted by registration of the strata plan;

“Proprietor” means the proprietor from time to time of a lot and the proprietor’s successors in title, personal representatives, permitted assigns and transferees or registered mortgagee in possession;

**"Proprietor's Invitee"** means each of the proprietor's agents, contractors, tenants, lessees, licensees, invitees and those persons who at any time are under the control of and in or upon a lot or the common property with the consent (express or implied) of a proprietor;

**"Premises"** means the proprietor's lot together with the fixtures and fittings and that portion of the common property which is exclusive use property;

**"Residential Lot"** means a lot which is intended for use as a residence;

**"Rules"** means the rules adopted by the strata company from time to time;

**"Schedule 2 Bylaws"** means these Schedule 2 Bylaws;

**"Scheme"** means the strata scheme constituted upon registration of the strata plan;

**"Strata Company"** means the strata company constituted by the registration of the strata plan;

**"Strata Company Manager"** means the person who is appointed from time to time as strata company manager;

**"Strata Plan"** means the strata plan and any subdivision thereof registered from time to time in respect of the land.

## 1.2 Interpretation

In the Schedule 2 Bylaws:

1.2.1 Reference to any statute or statutory provision includes a reference to:

1.2.1.1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and

1.2.1.2 all statutory instruments or orders made pursuant to it.

1.2.2 Words denoting the singular number shall include the plural and vice versa.

1.2.3 Words denoting any gender include all genders and words denoting persons shall include firms and corporations and vice versa.

1.2.4 Headings are inserted for convenience only and shall not affect the construction or interpretation of the Schedule 2 Bylaws.

## 1.3 Severability

If any Schedule 2 Bylaw is invalid or unenforceable, then the remaining Schedule 2 Bylaws shall be valid and enforceable.



1.4 Application

The Schedule 2 Bylaws:

1.4.1 apply in respect of the common property and all lots; and

1.4.2 bind a proprietor's invitees.

2. Behaviour

2.1 A proprietor shall not:

2.1.1 use his premises or any part of the common property for any purpose which may be a breach of the bylaws, the regulations or bylaws of the local authority or any other governmental regulation or law;

2.1.2 use his premises for any purpose that may be illegal or immoral or injure the reputation of the scheme as a luxury residential complex;

2.1.3 obstruct the lawful use of the common property (other than his exclusive use property) by any person or permit to be done anything whereby any obstruction, restriction or hindrance may be caused to the entrances, exits, access roads, pathways, of any lot or any part of the common property (other than his exclusive use property) to any person lawfully using the same;

2.1.4 deposit or throw upon the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of any other person lawfully using the common property;

2.1.5 make undue noise in or about his premises or the common property that disturbs any other person or that contravenes the regulations, or bylaws of the local authority or any other governmental regulation or law;

2.1.6 permit any child of whom he has control to play upon common property or use the facilities unless accompanied by an adult person exercising effective control;

2.1.7 use language or behave in a manner likely to cause offence or embarrassment to any person lawfully using common property;

2.1.8 be inadequately or inappropriately clothed when upon common property;

2.1.9 ride bicycles, skateboards or rollerblades or like equipment on any portion of the common property;

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of several overlapping loops and lines.

- 2.1.10 without the written consent of the strata company, maintain within his premises anything visible from outside his premises which is not in keeping with the amenity or reputation of the scheme as a residential complex;
- 2.1.11 allow the escape of water from the proprietors' garden or balconies in or on any adjacent lot.
- 2.2 Without affecting the strata company's rights under the Act, the strata company may issue a notice cautioning the proprietor or occupier of a Residential Lot in respect of a breach of any of the provisions of this Bylaw and in doing so, the strata company may:
- 2.2.1 recover all costs associated with regards to the issuing of the breach notice, including but not limited to any strata company management cost which may be charged to the strata company as a result of this action.
3. Children playing upon common property
- 3.1 A proprietor or invitee shall not permit any child under the age of sixteen (16) of whom they have control to play or remain upon common property if that may pose a danger or hazard to the child, unless accompanied by an adult exercising effective control.
4. Vehicles
- 4.1 Neither a proprietor nor a proprietor's invitee shall:
- 4.1.1 drive or control any vehicle at a speed in excess of ten (10) kilometres per hour within the Scheme;
- 4.1.2 conduct repairs on or restoration to any vehicle, on any portion of the common property or premises or on any lot;
- 4.1.3 use a designated parking bay for any purpose other than parking one motor vehicle;
- 4.1.4 park or stand any vehicle upon those portions of the common property allocated for that purpose, except with the prior written approval of the strata company;
- 4.1.5 use any part of the common property for the parking or standing of a caravan, camper van, trailer, marine craft or commercial vehicle;
- 4.1.6 park or leave any vehicle in such a position where it is likely to be a nuisance or obstruct access or egress to any car parking area, or any part of the common property.

**5. Responsibility for Proprietor's Invitees**

**5.1 A proprietor shall:**

**25.1.1 take reasonable steps to ensure that the proprietor's invitees observe and comply with the bylaws and the rules and if the proprietor is unable to ensure such compliance then the proprietor upon written notice from the strata company must take reasonable steps to have the proprietor's invitees leave the scheme;**

**25.1.2 compensate the strata company for any damage, loss, expense or claim occasioned by the strata company and caused or contributed to by the proprietor's invitees.**

**6. Garbage Disposal**

**6.1 A proprietor shall:**

**6.1.1 maintain on his lot or on such part of the common property as may be designated by the strata company for that purpose, in a clean and dry condition and adequately covered, a receptacle for garbage;**

**6.1.2 ensure that before garbage is placed in the receptacle that it is securely wrapped or in the case of tins, bottles and other containers is completely drained;**

**6.1.3 comply with all local authority bylaws, regulations and ordinances relating to the disposal of garbage;**

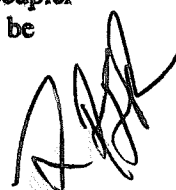
**6.1.4 ensure that the health, hygiene and comfort of other proprietors is not adversely affected by the disposal of his garbage.**

**7. Signs**

**7.1 A proprietor or occupier shall not allow to be erected nor displayed, any sign, advertisement, placard, banner, pamphlet or like matter on any part of their lot in such a way as to be visible from outside the building or on the common property, without the prior written consent of the council of the strata company, in the council of the strata company's sole discretion.**

**7.2 A proprietor or occupier granted consent by the council of the strata company is liable to all other proprietors, occupiers and/or their guests and invitees for any damage to persons or property caused by the signage.**

**7.3 If the council of the strata company grants permission to a proprietor or occupier to erect or display any signage on any part of their lot in such a way as to be**



visible from outside the building or on any part of the common property, such consent may be on such conditions as the strata company deems fit, provided that those conditions will include:

- 7.3.1 the council of the strata company's permission is granted on a maximum eight (8) week term;
- 7.3.2 a further four (4) week term may be granted by the council of the strata company, however, is subject to further application two (2) weeks prior to the expiry of the initial eight (8) week term as may be granted in bylaw 7.3.1;
- 7.3.3 all costs associated with the erection of the sign shall be borne by the applicant;
- 7.3.4 no more than four (4) for sale and/or for rent signs shall be erected at any one time in such a way as to be visible from outside the building or on any part of the common property.

**8. Antenna**

- 8.1 All television, radio other electronic antenna or devices of similar type shall only be erected, constructed, placed or permitted to remain within the lot.

**9. Pets**

In this Bylaw:

**"Excluded Dog" means:**

- (a) a pit bull terrier;
- (b) an American pit bull terrier;
- (c) a dogo argentino;
- (d) a fini breasileiro;
- (e) a Japanese tosa;
- (f) any other outcross;
- (g) any dog prohibited from importation into Australia by the Commonwealth Government; and
- (h) an unregistered or dangerous dog under the *Dog Act 1976*;

- 9.1 A proprietor or occupier of a Residential Lot must lodge a pet application with the strata company and obtain written consent of the council of the strata company before that proprietor or occupier keeps any type of animal within the confines of that proprietor's or occupier's Residential Lot.





- 9.2 The pet application form must contain the following details with regards to the animal:
- 9.2.1 lot details and proprietor's consent;
  - 9.2.2 vaccination information;
  - 9.2.3 picture of the animal;
  - 9.2.4 local council registration certificate;
  - 9.2.5 microchip certificate.
- 9.3 The council of the strata company must review and provide feedback to the pet application form within twenty one (21) days of the application being lodged by the applicant in its entirety.
- 9.4 The council of the strata company will not withhold its consent if:
- 9.4.1 there is no other animal previously approved and residing within the confines of that proprietor's or occupier's Residential Lot;
  - 9.4.2 the animal is not an Excluded Dog or less than ten (10) kilograms;
  - 9.4.3 in all circumstances, in its reasonable opinion the animal is suitable to be kept as a domestic pet in the Residential Lot.
- 9.5 If a proprietor or occupier of a Residential Lot keeps an animal then the proprietor or occupier:
- 9.5.1 must ensure that the animal is at all times kept under control and within the confines of that proprietor's or occupier's Residential Lot;
  - 9.5.2 must ensure that the animal is not at any time within the common property except for the purpose of access to and from the proprietor's or occupier's Residential Lot;
  - 9.5.3 must ensure that, when in or on any part of the common property, the animal is at all times held by the proprietor or occupier;
  - 9.5.4 is liable to the proprietors and occupiers and each other person lawfully in the Building or in or about the common property for:
    - 9.5.5 any noise which is disturbing to an extent which is unreasonable;
    - 9.5.6 for damage to or loss of property or injury to any person caused by the animal; and
    - 9.5.7 is responsible for cleaning up after the animal has used any part of the common property.
- 9.6 This Bylaw:



- 9.6.1 applies to any person in a lot or on common property with the express or implied consent of the proprietor or occupier of that lot; and
- 9.6.2 does not prevent the keeping of a dog used as a guide dog or hearing dog.
- 9.7 Without affecting the strata company's rights under the Act, the strata company may issue a notice cautioning the proprietor or occupier of a Residential Lot in respect of a breach of any of the provisions of this Bylaw including (without limitation) where a proprietor's or occupier's animal causes or is causing:
- 9.7.1 any noise;
- 9.7.2 any odour or behaviour which is disturbing to an extent which is unreasonable; or
- 9.7.3 damage to or loss of property or injury to any person.
- 9.8 A further breach under this Bylaw after a notice has been served on a proprietor or occupier of a Residential Lot under this Bylaw will entitle the strata company to require the immediate removal of the animal from the Building, and the strata company may:
- 9.8.1 enter the lot within which the animal is kept and remove the same if the animal has not already been removed; and
- 9.8.2 recover all costs associated with regards to the issuing of the breach notice and subsequent removal of the animal, including but not limited to any strata management cost which may be charged to the strata company as a result of this action.
- 9.9 The proprietor or occupier will:
- 9.9.1 be responsible for the health, hygiene, control and supervision of any animal in his care;
- 9.9.2 prevent any animal from making a noise or behaving in a manner which disturbs the proprietors or occupiers of any other lot and will take every action reasonably necessary to remedy such behaviour within fourteen (14) days after written notice is served on the proprietor or the proprietor's invitee by the strata council;
- 9.9.3 not keep an animal on his lot if:
- 32.7.3.1 the keeping of the animal breaches any regulation or bylaw of the local authority;
- 32.7.3.2 he has failed to comply with a notice given by the strata council pursuant to this Bylaw;
- 32.7.3.3 he has within a twelve (12) month period received three notices issued under this Bylaw, in which event the council



may enter the lot within which the animal is kept and remove the same if the animal has not already been removed.

**10. Moving Furniture**

- 10.1 A proprietor or invitee shall not transport any furniture or large object through or upon common property including the lifts unless they:**
- 10.1.1 have first given to the strata company sufficient notice of their intention to do so to enable the strata company to arrange for its nominee to be present at the time when they do so;**
  - 10.1.2 take all reasonable steps to prevent damage to the common property; and**
  - 10.1.3 where applicable, install the lift protection blankets available from the strata company on reasonable notice.**
- 10.2 The proprietor of the relevant lot shall reimburse the strata company on demand for the costs of any cleaning or repair of damage resulting from the transport of any furniture or large object through or upon common property and this amount may be recovered as if it was a contribution levied pursuant to section 36(1).**

**11. Floor Coverings**

- 11.1 A proprietor shall ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the proprietors of other lots.**
- 11.2 A proprietor of a residential lot wishing to change the materials of the floor coverings must make application for approval to change floor coverings to the strata company and must include an accompanying report by a qualified acoustic engineer which confirms that the impact isolation performance of the existing flooring will not be reduced by the installation of the new floor type.**
- 11.3 An occupier of a lot shall ensure any movable furniture that is located either permanently or temporarily on a balcony have the legs or base of the furniture fitted with felt pads to assist in the restriction of the transmission of noise.**

**12. Windows**

- 12.1 A proprietor shall keep clean all glass in windows and doors (both internally and externally) on the boundary of the lot and all roof and skylight windows (if applicable) including so much thereof as is common property which may be**



cleaned safely and without risk of injury to the proprietor.

- 12.2 If a proprietor installs curtains then the back of the curtain must be coloured white.

**13. Drying**

- 13.1 Neither a proprietor nor a proprietor's invitee shall, except with the prior written consent of the strata company hang any washing, bedding, clothing or other article on any part of a lot or the premises in such a way as to be visible outside the lot or the premises.

**14. Storage of inflammable liquids**

- 14.1 Neither a proprietor nor a proprietor's invitee shall, except with the approval in writing of the strata company, use or store upon the lot or the premises or the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

**15. Use of Car Bays**

- 15.1 The part lot car bays are to be used for the parking of a private motor vehicle only. No commercial vehicle, caravan, trailer, float or boat is permitted to be parked in the car bay, without the consent of the council of the strata company.

**15.2 A proprietor:**

15.2.1 shall not erect any form of structure within or on the boundary of any part of his lot intended for use as a car bay which may prevent access to contiguous car bays;

15.2.2 shall not grant any lease, licence or other occupancy right to any person who is not a lot proprietor in respect of any portion of his or her lot used as a car bay or storage area;

15.2.3 shall at all times keep the car bay in a neat and tidy condition and shall not under any circumstances store any items, including, but not limited to, bicycles, surf boards and surf skis, fishing and golf gear, furniture, boxes, or any flammable item;

15.2.4 shall at no time allow any part of the vehicle to protrude into common property or an adjacent bay.

15.3 The council of the strata company reserves the right, after notice in that behalf given to a proprietor or occupier, to remove and dispose of those items after 21 days, at the proprietor's or occupier's expense.

16. Penalty for Breach of Bylaws

16.1 Any person who breaches Schedule 2 By-Laws is, subject to section 42A(2) of the Act, liable to pay a penalty of \$500.00 or such other amount as is prescribed by the Act from time to time.

17. Smoking

17.1 No proprietor or proprietor's invitee shall smoke in any portion of the Building comprising common property.

17.2 Any proprietor who breaches this bylaw or permits a breach of that bylaw will indemnify the Strata Company from any claim by any authority or the fire brigade arising from the smoke detectors fitted to the Building being activated by reason of the breach of this bylaw.

18. Visitor Parking

In this Bylaw:

"Visitor Parking Bay" means those car parking bays situate within the common property of the scheme and identified as for visitor parking.

18.1 The Visitor Parking Bays must only be used by visitors for temporary parking purposes while visiting the scheme.

18.2 No proprietor, occupier or other resident of a lot may use the Visitor Parking Bays for parking at any time.

18.3 The council of the strata company may make rules and regulations regarding the usage of the Visitor Parking Bays on the common property, including but not limited to the days and times of the day or night when the parking or standing of visitors' vehicles in visitors' parking bays is permitted.

18.4 A proprietor, occupier or other resident of a lot, guest, visitor, employees, contractor and/or subcontractor must at all times comply with the rules and regulations made from time to time by the council of the strata company in relation to the use of Visitor Parking Bays on the common property.

18.5 For the purpose of this bylaw the council of the strata company may:

18.5.1 install and maintain signs and notices on the common property setting out conditions and restrictions relating to the use of the Visitor



Parking Bays and details of any penalties that may be imposed in the event of any breach of any of those conditions or restrictions.

- 18.5.2 enter into a contract or arrangement with any local government or private contractor having appropriate powers to supervise and enforce compliance with conditions or restrictions in respect of the parking or standing of vehicles on common property in the parcel, including but not limited to wheel clamping and removal of vehicles.

## 19. Disabled Parking

In this Bylaw:

“Disabled Parking Bay” means those car parking bays situate within the common property of the scheme and identified as for disabled parking.

- 19.1 The Disabled Parking Bays must only be used by disabled visitors for temporary parking purposes while visiting the scheme.
- 19.2 No proprietor, occupier or other resident of a lot may use the Disabled Parking Bays for parking at any time.

## 20. Use of Swimming Pool

In this Bylaw

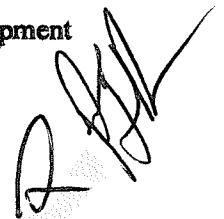
“Pool Area” includes the Swimming Pool and those areas adjacent to the Swimming Pool necessary for use and enjoyment of the Swimming Pool;

“Swimming Pool” means the swimming pool forming part of the Facilities.

“Approved Person” means an adult proprietor while residing in a lot or the lawful occupier of a lot and includes an invitee of that proprietor or occupier while in the company of that proprietor or occupier.

- 20.1 This Bylaw regulating the use of the Swimming Pool and the Pool Area is in addition to and not substitution of any other Bylaw or Rule relating to the use and enjoyment of the Facilities.
- 20.2 An Approved Person shall:
- 20.2.1 not allow any child under the age of sixteen (16) years to use the Pool Area and Swimming Pool when not supervised by an Approved Person;
- 20.2.2 not misuse nor permit the misuse of the Pool Area and Swimming Pool;

- 20.2.3 comply with all safety and other directions displayed within the Pool Area and Swimming Pool; and
  - 20.2.4 immediately report any accident causing injury to any person within the Pool Area and Swimming Pool to the caretaker or in the caretaker's absence, the strata manager.
- 20.3 Neither a proprietor nor a proprietor's invitee may:
- 20.3.1 use the Pool Area between the hours of 10pm and 6am.
  - 20.3.2 use any part of the Pool Area to the exclusion of any other person entitled to use the Pool Area;
  - 20.3.3 use any part of the Pool Area for any business;
  - 20.3.4 enter or remain in the Pool Area if under the influence of drugs or alcohol;
  - 20.3.5 behave in a loud, disorderly, immoral, abusive, riotous, indecent, obscene or aggressive manner;
  - 20.3.6 spit or urinate or defecate in the Swimming Pool;
  - 20.3.7 use soap, detergent or any other substance that may foul or pollute any part of the Swimming Pool;
  - 20.3.8 climb up or onto any fence, partition, roof or raised object in the Pool Area other than one intended for that purpose;
  - 20.3.9 enter or remain in the Pool Area unless suitably attired;
  - 20.3.10 enter and exit the Pool Area except through the gates and doors which are designed for that purpose;
  - 20.3.11 eat in or take into the Swimming Pool any food, drink or confectionery;
  - 20.3.12 permit any animal to enter the Pool Area;
  - 20.3.13 leave any rubbish in the pool Area except in a receptacle provided for that purpose;
  - 20.3.14 smoke in the Pool Area;
  - 20.3.15 enter or use the Swimming Pool if affected by or suffering from any infectious or contagious disease or skin complaint;
  - 20.3.16 use or leave drinking glasses, bottles or any other glass container within four (4) metres of the Swimming Pool;
  - 20.3.17 improperly use, damage or remove any furniture fittings, equipment or chattels located in the Pool Area; or



20.3.18 tamper with any equipment in the Pool Area.

- 20.4 Every proprietor shall obtain and deliver to the council of the strata company an acknowledgment from every occupier of the proprietors lot in such form as is reasonably required by the Council from time to time to the effect that the occupier has been made aware of this Bylaw and the occupiers obligation to comply at all times with this Bylaw.
- 20.5 The Council may restrict the use of the facilities or any of them to such times as the Council reasonably determines, and may prevent use of the facilities during such periods as may be reasonably necessary for security and safety reasons, and to enable the strata company to comply with its obligations under section 35(1)(c).

## 21. Common Centre Facilities

In this Bylaw:

“Approved Person” means an adult proprietor while residing in a lot or the lawful occupier of a lot and includes an invitee of that proprietor or occupier while in the company of that proprietor or occupier.

“Common Centre Facilities” means common facilities located on level five (5), consisting of pool, lounge and TV deck, BBQ facilities and seating area, accessible toilet, and garden areas including fire pit.

21.1 An Approved Person shall:

21.1.1 not allow any child under the age of sixteen (16) years to use the Common Centre Facilities when not supervised by an Approved Person;

21.1.2 not misuse nor permit the misuse of the Common Centre Facilities;

21.1.3 comply with all safety and other directions displayed within the Common Centre Facilities; and

21.1.4 immediately report any accident causing injury to any person within the Common Centre Facilities to the caretaker or in the caretaker's absence, the strata manager.

21.2 An Approved Person making use of any of the Common Centre Facilities shall ensure that they are used only in accordance with any instructions provided for their use and that, where applicable, all lights are turned off at the conclusion of their use.

21.3 An Approved Person:





- 21.3.1 shall notify the strata manager immediately upon becoming aware of any breakdown of, loss of, damage to or defect in any part of the facilities;
- 21.3.2 be responsible for any necessary repair or replacement of the facilities resulting from the use thereof by that person.
- 21.4 A proprietor, occupier or other resident shall not use nor arrange for any person to use any of the Common Centre Facilities for any business or profit-making purpose or for any sports coaching, professionally or otherwise, for any person who is not an occupier of a lot, unless it has the council of the strata company's approval.
- 21.5 The Council may restrict the use of the facilities or any such times as the Council reasonably determines, and may prevent use of the facilities during such periods as may be reasonably necessary for security and safety reasons, and to enable the strata company to comply with its obligations under section 35(1)(c).

## **22. Responsibility, Risk and Indemnities**

In this Bylaw:

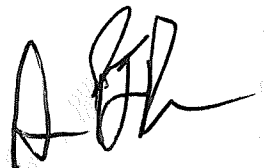
"Approved Person" means an adult proprietor while residing in a lot or the lawful occupier of a lot and includes an invitee of that proprietor or occupier while in the company of that proprietor or occupier.

"Pool Area" includes the Swimming Pool and those areas adjacent to the Swimming Pool necessary for use and enjoyment of the Swimming Pool;

"Swimming Pool" means the swimming pool forming part of the Facilities.

"Common Centre Facilities" means common facilities located on level five (5), consisting of pool, lounge and TV deck, BBQ facilities and seating area, accessible toilet, and garden areas including fire pit.

- 22.1 Each Approved Person agrees to be bound by bylaws 20 and 21 of the Schedule 2 Bylaws and furthermore warrants that every child under the age of 16 and visitor related to that Approved Person will not act in a manner which would, if that child or visitor were bound by these bylaws 20 and 21, constitute a breach of these bylaws by that person.
- 22.2 To the full extent permitted by law, every person entering the Pool Area, Swimming Pool and Common Centre Facilities:
- 22.2.1 enters at their own risk;
- 22.2.2 assumes all risk and danger to them arising out of entering, remaining in and using these facilities including without limitation damage or injury caused by other persons; and



22.2.3 releases the Strata Company, the Strata Company Manager, the caretaker and their and each or their employees and agents from all liability howsoever arising from:

57.2.3.1 any accident damage or injury to property of, or loss of property of, that person; and

57.2.3.2 any accident, damage, injury or death suffered by that person, incurred whilst that person is or was in these areas.

22.3 Every adult Resident, regardless of whether he or she is present with the Children or Visitors relating to that Resident in the Pool Area, accepts all responsibility for all of the risk and danger to all of those Children and Visitors arising out of those Children and Visitors entering, remaining in and using the Pool Area including without limitation damage or injury caused by other persons.

22.4 Every adult Resident indemnifies and shall keep indemnified the Strata Company, the Strata Company Manager, the Pool Manager and their and each of their employees and agents from and against any loss, damage, consequential loss and damage, claims, demands, proceedings and actions whatsoever made in relation to:

22.4.1 any accident damage or injury to property of, or loss of property of, that Resident and every Resident and Visitor relating to that Resident; and

22.4.2 any accident, damage, injury or death suffered by that Resident and every Resident and Visitor relating to that Resident, in or about or proximate to or arising out of the use of the Pool Area.



## Attachment 5 - Strata Company Management Agreement

Attachment to Annexure C Disclosure Statement – Form 28

*This page has been intentionally left blank*



# STRATA MANAGEMENT AGREEMENT

FOR USE BY MEMBERS OF STRATA COMMUNITY AUSTRALIA (WA) INC ONLY

<b>Date of Agreement</b>		
<b>Strata Company</b>		
<b>Name</b>	The Owners of	Quayhouse Apartments
	<b>Strata Plan No.</b>	71830
	<b>ABN (if known)</b>	.....
<b>Address</b>	8 - 10 Brunswick Street, North Coogee	
<b>Strata Manager</b>		
<b>Name</b>	Bellcourt Strata Management	<b>SCAWA Membership No.</b> 156
<b>ABN</b>	44 074 386 388	<b>Phone</b> (08) 9382 7700
<b>Business Name</b>	Bellcourt Strata Management Pty Ltd	<b>Fax</b> (08) 382 7799
<b>Postal Address</b>	PO Box 7099, Shenton Park WA 6008	<b>Email</b> admin@bellcourt.com.au
<b>Particulars</b>		
<b>Item 1</b>	<b>Term</b>	5 Years
<b>Item 2</b>	<b>Commencement Date</b>	First AGM of the Strata Company
	<b>Expiry Date</b>	.....
<b>Item 3</b>	<b>Review Dates</b>	Annually
<b>Item 4</b>	<b>Percentage Increase</b>	5% per annum (or as agreed between parties)
<b>Item 5</b>	<b>Agreed Services Fee</b>	\$10,500 per annum inclusive of GST
<b>Item 6</b>	<b>Fee Payment Method</b>	Paid Monthly in Arrears
<b>Item 7</b>	<b>Strata Company Representative</b>	<b>Name:</b> .....
		<b>Council Position:</b> .....
<b>Item 8</b>	<b>Manner and frequency of financial reporting</b>	As per agreement with Council of Management
<b>Notice: The fees and charges referred to in this agreement are not fixed by law and are to be agreed between the Strata Company and the Strata Manager</b>		



<b>Execution of Agreement</b>			
<b>Strata Company</b>			
<p>Executed on behalf of the owners of Quayhouse Apartments  Strata Plan No.: 71830</p> <p>on the ..... day of ..... 2015</p> <p>By</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <p>_____</p> <p>Councillor's signature</p> <p>_____</p> <p>Name of Councillor</p> </td> <td style="width: 50%; border: none;"> <p>_____</p> <p>Councillor's signature</p> <p>_____</p> <p>Name of Councillor</p> </td> </tr> </table>		<p>_____</p> <p>Councillor's signature</p> <p>_____</p> <p>Name of Councillor</p>	<p>_____</p> <p>Councillor's signature</p> <p>_____</p> <p>Name of Councillor</p>
<p>_____</p> <p>Councillor's signature</p> <p>_____</p> <p>Name of Councillor</p>	<p>_____</p> <p>Councillor's signature</p> <p>_____</p> <p>Name of Councillor</p>		
<b>Strata Manager</b>			
<p>Executed on behalf of</p> <p>Bellcourt Strata Management Pty Ltd</p>    <p>Signature</p> <p>Scott Bellerby</p> <p>Managing Director</p>	<p>In the presence of</p>    <p>Witness signature</p> <p>Joan Bellerby</p> <p>Director</p>		

## **AGREEMENT**

---

### **1. Appointment of and delegation to Strata Manager**

- 1.1. The Strata Company:
  - (a) appoints the Strata Manager as the strata manager for the Strata Company;
  - (b) subject to clause 1.4, delegates the Agreed Services to the Strata Manager;
  - (c) requests that the Strata Manager perform the Agreed Services; and
  - (d) the Strata Manager accepts that appointment and delegation and agrees to undertake the Agreed Services for the Term and any Successive Term for the Agreed Services Fee, unless and until terminated in accordance with clause 5.
- 1.2. At any time during the Term or any Successive Term, the Strata Company may request that the Strata Manager accept a delegation of and perform any or all of the Additional Services for the Additional Services Fees.
- 1.3. The Strata Manager, at its absolute discretion, may elect not to accept a delegation of the requested Additional Services.
- 1.4. The parties acknowledge that the delegations to the Strata Manager in clauses 1.1(b) and clause 1.2 do not:
  - (a) constitute a delegation by the Strata Company of its power to make:
    - (i) a delegation under the Act or the By-laws; or
    - (ii) a decision on a matter required by the Act or the By-laws to be decided by the Strata Company or the Council; or
    - (iii) a determination relating to the levying or payment of contributions on proprietors; or
  - (b) prevent the Strata Company or the Council from exercising all or any of the Agreed Services or Additional Services.

### **2. Fees and charges**

- 2.1. The Strata Company shall pay the Strata Manager:
  - (a) the Agreed Services Fee;
  - (b) the Additional Services Fees for any Additional Services performed by the Strata Manager; and
  - (c) the Charges associated with the performance of the Agreed Services and any Additional Services; and

in accordance with the Fee Payment Method.
- 2.2. The Strata Manager must account to the Strata Company for money received and payments made by the Strata Manager on behalf of the Strata Company in the manner and at the frequency set out in Item 8.
- 2.3. The Strata Company acknowledges that the Strata Manager may be offered rebates, discounts and commissions in the course of providing the Agreed Services and the Additional Services.
- 2.4. The Strata Manager may retain rebates, discounts and commissions paid to it by providers of goods and services to the Strata Company described in Schedule E or as later consented



to in writing (which consent shall not be unreasonably withheld) by the Strata Company, provided the full nature and extent of the rebates, discounts and commissions are disclosed.

### 3. Review of fees and charges

- 3.1. The Agreed Services Fee will be increased on each of the Review Dates by the Percentage Increase or an amount agreed in writing between the parties, not being less than the amounts payable at each Review Date.
- 3.2. Additional Services Fees and Charges will be increased on each of the Review Dates by the Percentage Increase or an amount agreed in writing between the parties, not being less than the amounts payable at each Review Date.
- 3.3. If the parties cannot agree on this before each of the Review Dates, the Agreed Services Fee, Additional Services Fees and Charges payable on and from the relevant Review Date will be increased by the percentage rate specified in the Percentage Increase (Item 4).

### 4. Insurance

The Strata Company acknowledges that:

- (a) the Strata Manager is only qualified to give general information and advice about insurance to the Strata Company;
- (b) the Strata Manager is not qualified to give personal advice about insurance to the Strata Company;
- (c) if the Strata Company requires specialist insurance advice, the Strata Manager can refer the Strata Company to an insurance advisor;
- (d) if the Strata Manager recommends that the insurance for the Strata Company should be placed with an insurer, that recommendation is general advice only, not personal advice; and
- (e) all proprietors should read the relevant product disclosure statement before deciding to buy any insurance.
- (f) if the Strata Manager has not received instructions from the Council seven (7) days prior to the expiry of the insurance, the Strata Manager will renew the policy at the recommended value to avoid the Strata Company from becoming uninsured.

### 5. Termination of this Agreement

- 5.1. This Agreement may be terminated without penalty at any time by mutual consent.
- 5.2. This Agreement will terminate on the Expiry Date if a party gives to the other party not less than 3 months written notice of termination before the Expiry Date.
- 5.3. If this Agreement does not terminate on the Expiry Date or is not otherwise terminated during the Term, this Agreement will automatically continue for Successive Terms unless and until terminated:
  - (a) under clause 5.1; or
  - (b) if a party gives to the other party not less than 3 months written notice prior to the expiry of the Successive Term; or
  - (c) under clause 5.4.
- 5.4. Despite clauses 5.1, 5.2 and 5.3, this Agreement may be terminated without notice:
  - (a) by the Strata Company:



- (i) if the Strata Manager is in breach of this Agreement, the Act or any other statute and fails to remedy that breach (if capable of remedy) within 14 days after the Strata Company serves a written notice on the Strata Manager providing particulars of the breach; or
  - (ii) If the Strata Manager commits an act of bankruptcy or is placed under external administration; and
- (b) by the Strata Manager if:
- (i) the Strata Company fails to pay any money owing to the Strata Manager under this Agreement within 14 days after the Strata Manager serves a written notice on the Strata Company providing details of the unpaid amount; or
  - (ii) the Strata Company acts or fails to so act as to prevent the Strata Manager from properly and lawfully carrying out its obligations under this Agreement.
- 5.5. If this Agreement is terminated, the Strata Manager must make available at the Strata Manager's office for collection by the Strata Company, all records and other property of the Strata Company in its possession within 7 days after the Strata Company:
- (i) serves notice in writing, which has been approved at a duly convened Strata Company Council meeting, signed by each councillor elected to the Council and subsequently delivered to the Strata Manager's office; and
  - (ii) pays all money's owing to the Strata Manager;
- from whichever date is the later.

## 6. Liability of Strata Manager and Indemnity by Strata Company

- 6.1. The Strata Company acknowledges that:
- (a) the Act confers responsibility on the Strata Company for the management, control, maintenance, repair, renewal and replacement of Common Property; and
  - (b) if, as part of the Agreed Services or Additional Services, the Strata Manager is required to carry out a function of the Strata Company relating to the management, control, maintenance, repair, renewal or replacement of Common Property:
    - (i) the responsibility of the Strata Manager is limited to those specifically identified services the Strata Company requests the Strata Manager to carry out in respect of that specific property; and
    - (ii) the Strata Manager has no liability for any Loss from any inherent defect or danger in Common Property or any disrepair, defect or danger in Common Property that is not the subject of a request under clause 6.1(b)(i).
- 6.2. The Strata Manager is not liable to the Strata Company if the Strata Manager fails to do any act it is obliged to do under this Agreement if the Strata Company fails to make the appropriate decision in relation to such act or to make sufficient money available to the Strata Manager to enable the Strata Manager to carry out its obligations.
- 6.3. The Strata Company indemnifies the Strata Manager against all Loss relating to or arising from the performance by the Strata Manager of its obligations, unless the Loss is caused by the Strata Manager's negligence or default under this Agreement.
- 6.4. This clause does not exclude or limit the application of any statute where to do so would contravene that statute or cause any part of this Agreement to be void.

## **7. Strata Company Representative**

- 7.1. The Strata Company warrants and acknowledges that:
  - (a) the Strata Company Representative is validly nominated by the Strata Company to communicate with the Strata Manager on behalf of the Strata Company;
  - (b) the Strata Manager may accept and act on instructions communicated to the Strata Manager by the Strata Company Representative; and
  - (c) any communication by the Strata Manager to the Strata Company Representative is deemed to be a communication to the Strata Company.
- 7.2. The Strata Company Representative must be a member of the Council, or in the case of a corporate member of Council, the person nominated by that member of the Council to act for it.
- 7.3. The Strata Company may nominate a new Strata Company Representative at any time by written notice to the Strata Manager.
- 7.4. The appointment of the Strata Company Representative does not preclude the Strata Company from otherwise providing instructions to and communicating with the Strata Manager. If there is any discrepancy between instructions provided to the Strata Manager by the Strata Company and those provided by the Strata Company Representative, the instructions provided by the Strata Company shall prevail.

## **8. Assignment of this Agreement**

- 8.1. The Strata Manager may assign this Agreement with the consent of the Strata Company. That consent shall not be unreasonably withheld if the Strata Manager satisfies the Strata Company that the proposed assignee has sufficient qualifications, competence and experience to perform the Agreed Services and Additional Services.
- 8.2. The Strata Company must advise the Strata Manager of its decision whether to approve a proposed assignment within 28 days of receiving the information reasonably necessary to make that decision.
- 8.3. The Strata Company must not require or receive a fee or other consideration for approving the assignment (other than reimbursement for reasonable legal or accounting expenses incurred by the Strata Company in considering the proposed assignment).

## **9. Service of Notices**

Any notice to be served under this Agreement must be served in writing by post, fax, e-mail or personally using the contact details provided on the front page of this Agreement or other contact details subsequently notified in writing by a party to the other party.

## **10. GST**

- 10.1. Words or expressions used in this Agreement that are defined in the GST Act have the same meaning in this Agreement.
- 10.2. The parties acknowledge that:
  - (a) the Agreed Services Fee, Additional Services Fees and Charges include GST and are based on a GST rate of 10%; and
  - (b) if the rate of GST increases or decreases, the Agreed Services Fee, Additional Services Fees and Charges will simultaneously increase or decrease so that the Strata Manager receives the same GST-exclusive payment as it received before the change in the rate of GST.

## **11. Governing Law**

This Agreement is governed by the law of Western Australia.

## 12. Interpretation

In this Agreement, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa:
- (b) a reference to :
  - (i) a thing includes the whole or each part of it;
  - (ii) a document or agreement includes any variation or replacement of it;
  - (iii) a statute includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
  - (iv) a person includes that person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.



### 13. Definitions

The following words have these meanings in this Agreement:  
*Act Strata Titles Act 1985 (WA)*

Additional Services	the services set out in Schedule B
Additional Services Fees	the fees for the supply of the Additional Services calculated according to the rates set out in Schedule C and Schedule D, as may be varied and escalated in accordance to the Percentage Increase
Agreed Services	the services set out in Schedule A
Agreed Services Fee	the fee set out in Item 5 for the supply of the Agreed Services, as may be varied
Agreement	this agreement including the Particulars and Schedules
By-laws	the by-laws of the Strata Company
Charges	the costs and fees set out in Schedule D, as may be varied
Commencement Date	the earlier date set out in Item 2
Common Property	the property for which the Strata Company is responsible under the Act
Council	the council of the Strata Company
Expiry Date	the later date set out in Item 2
Fee Payment Method	the method set out in Item 6 for paying the Agreed Services Fee, Additional Services Fees and the Charges
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
Item	an item in the Particulars
Loss	actions, claims, demands, costs, damages, expenses and liabilities (including legal costs on a solicitor/own client basis)
Percentage Increase	the percentage rate set out in Item 4
Review Dates	the dates set out in Item 3
SCAWA	the Strata Community Australia (WA) Inc
Strata Company	the strata company described on the front page of this Agreement, including the Council and employees, agents (other than the Strata Manager) and contractors of the Strata Company
Strata Company Representative	the natural person named in Item 7
Strata Manager	the strata manager described on the front page of this Agreement, including any employees and contractors
Successive Term	a period of the same length as the Term, starting on the day after the Expiry Date or the preceding Successive Term, as the case may be
Term	the period set out in Item 1 commencing on the Commencement Date and expiring on the Expiry Date

**SCHEDULE C**  
**ADDITIONAL SERVICES**

**Professional Services Fees –**

Item	Charge \$ (incl GST)	Unit
Adjourned Strata Company and Council meeting charge	\$330	per hour (minimum 1 hour)
Attendance at General Meetings and Council meetings	\$187	per hour (minimum 1 hour)
Attending meetings at a venue other than Strata Manager's office	\$187	per hour (plus travelling time)
Attendance at meetings extending beyond 7pm	\$242	per hour
Hourly rate for administrative staff	\$88	per hour
Hourly rate for Strata Manager	\$187	per hour
Site attendance within 25km of CBD	\$220	per visit
Site attendance greater than 25km of CBD	\$187	per hour including travelling time

**Administration and Statutory Compliance Fees -**

Item	Charge \$ (incl GST)	Unit
ABN registration	\$220	per registration
Compiling and preparation of records for tax/BAS returns	\$165	per return
Preparation of Caretakers Wages per month	\$41.25	per 15 minutes
Preparation of Caretakers Super Guarantee per quarter	\$41.25	per 15 minutes
Reconciling records for handover or takeover	\$165	per hour (to a maximum - \$880)
Preparation of By-Laws	\$220	per hour (minimum 1 hour)
Lodging of By-Laws	\$165	per lodgement plus statutory fee
SAT & Building Commission applications	\$220	per application
Preparation and issuing of breach notice	\$22	per breach notice
Searches of Title & By-Laws	\$35	per search
Archive storage and administration per year	\$110	per strata company
Postage and pettyies	\$3.30	per lot per month
Booking of Common Area Facilities	\$16.50	per booking
Courier	\$11	per item (plus courier charges)
Minute book	\$110	per book
After hours work orders	\$27.50	per work order
New owner pack	\$37.50	per pack
Common seal	\$55.00	per item
Web Service	\$7.50	per lot per annum
Risk Management	\$132	per strata company



**SCHEDULE D  
ADDITIONAL SERVICES**

**On-bill Charges to Proprietors -**

Item	Charge \$ (incl GST)	Unit
Preparation of 1st arrears letter	\$27.50	per notice
Preparation of letter of demand	\$44	per notice
Instruction from Council	\$5.50	per notice
Preparation of Summons	\$77	per notice
Issue of Breach Notice	\$22	per breach notice
**Providing annual account summary	\$27.50	per report
**Providing management documents	\$27.50	per copy
**Providing additional minutes of meeting	\$11	per copy plus postage
Providing additional invoice or statement	\$11	per copy
**Providing insurance confirmation letter	\$11	per letter
Searches of Title & By-Laws	\$35	per search
Booking of Common Area Facilities	\$16.50	per booking
Providing access devices to proprietor	\$16.50	per order
Posting access devices padded bag	\$11	per bag
Registered post of access devices	\$17.50	per item
Reconciliation of sub-metered accounts	\$5.50	per sub-meter
Processing stop payments and dishonoured cheques for contribution payments	\$44	per transaction
**Inspecting records (Strata Manager in attendance)	\$165	per hour (minimum 30 mins)
Preparing and issuing Section 43 certificate (ex GST)	\$100	per certificate
Section 43(1)(a) (ex GST)	\$10	per copy
Section 43(1)(b) (ex GST) – for non-proprietor	\$40	per inspection
Section 43 (1a) (ex GST)	\$40	first 5 pages

\*\* Other than for the purposes of Council Business

**SCHEDULE E  
DISCLOSURE SCHEDULE**

The following providers pay a rebate, discount or commission to the Strata Manager

Name of company/person	Nature of rebate, discount or commission	Amount/percentage of rebate, discount or commission
CHU Underwriting Agencies Pty Ltd	Commission	Up to 20%
Body Corporate Brokers	Commission	Up to 20%
Strata Community Insurance	Commission	Up to 20%

The Strata Manager is an authorised representative of CHU Underwriting Agencies Pty Ltd and an agent of the insurers QBE Insurance.

Bellcourt Strata Management advise that should the Strata Company Insurance not be placed directly through CHU Underwriting Agencies Pty Ltd, Body Corporate Brokers or Strata Community Insurance, then they reserve the right to charge for all Insurance Claims lodged at the hourly rate of \$187 (incl GST) with a minimum fee of \$440 (incl GST) per Claim.

Bellcourt Strata Management declares that as at the date of this agreement, apart from the above disclosure they do not receive any rebate, discount or commission from any other supplier and or contractor.

Bellcourt Strata Management Pty Ltd  
ABN 14 074 386 388  
Strata Community Australia (WA) Member  
Directors: J.A. Bellerby, B.S.C. Bellerby




strata  
community  
australia



THE OWNERS OF QUAYHOUSE APARTMENTS

LOT 1011 BRUNSWICK STREET PORT COOGEE

**PROPOSED ADMINISTRATIVE EXPENSES FUND BUDGET FOR 12 MONTHS FOLLOWING REGISTRATION**

Sec 36(1) Administrative Expenses

The Strata Company must establish a fund for administrative expenses that is sufficient to manage the common property and pay for any Insurance premiums when they fall due.

<b>EXPENDITURE</b>	
<b>Administration</b>	
Management fees	\$ 10,500.00
Meeting Fees	\$ 1,500.00
Postage/petties/photocopying	\$ 1,000.00
Accounting & Bas Fees	\$ 1,800.00
Initial Set up Costs	\$ 2,500.00
Bank Fees	\$ 200.00
ABN/Tax Registration	\$ 165.00
Minute Book & Common Seal	\$ 150.00
Annual Web Charges	\$ 450.00
Risk Management	\$ 132.00
Sub Total	<u>\$ 18,397.00</u>
<b>Insurance</b>	
Building (\$12mil) /WC/Pub Liab	<u>\$ 12,000.00</u>
<b>Utilities</b>	
Electricity	\$ 15,000.00
Water	\$ 12,000.00
Sub Total	<u>\$ 27,000.00</u>
<b>Lifts</b>	
Contract Fees	\$ 3,000.00
Lift Phone	\$ 700.00
Sub Total	<u>\$ 3,700.00</u>
<b>Fire Services</b>	
Maintenance Contract	\$ 3,000.00
FESA Alarm Fees	\$ 1,700.00
Telephone Line	\$ 500.00
Sub Total	<u>\$ 5,200.00</u>



THE OWNERS OF QUAYHOUSE APARTMENTS

LOT 1011 BRUNSWICK STREET PORT COOGEE

**PROPOSED ADMINISTRATIVE EXPENSES FUND BUDGET FOR 12 MONTHS FOLLOWING REGISTRATION**

<b>EXPENDITURE (CONTINUED)</b>	
<b>Cleaning</b>	
Cleaning Contract (6-7hrs/w)	\$ 18,000.00
Common Toilet supplies	\$ 500.00
<b>Sub Total</b>	<b>\$ 18,500.00</b>
<b>Maintenance</b>	
Building	\$ 1,000.00
Plumbing	\$ 1,000.00
Electrical	\$ 1,000.00
Mechanical	\$ 500.00
Security Gates	\$ 500.00
Plants/fertilizer/Mulch/Lawn Maintenance	\$ 1,000.00
Reticulation/Watering System	\$ 200.00
Pool Testing/Servicing	\$ 12,200.00
Pool Supplies/Maintenance	\$ 3,000.00
<b>Sub Total</b>	<b>\$ 20,400.00</b>
<b>Total Expenditure</b>	<b>\$ 105,197.00</b>

LEVY CALCULATION

Proposed levy contributions to the Strata Company will be calculated by:

1. Dividing the estimated annual expenditure by the total unit entitlement of the scheme to obtain a sum per single unit entitlement.
2. The single unit entitlement amount is then multiplied by the unit entitlement per individual lot to calculate that lot's annual levy.
3. The annual levy is then divided by 4 and billed quarterly due and payable on the 1st day of the quarter.





**THE OWNERS OF QUAYHOUSE APARTMENTS**

**PROPOSED RESERVE FUND BUDGET FOR 12 MONTHS  
FOLLOWING REGISTRATION**

<b><u>Sec 36(2) Reserve Fund Levies</u></b>	
A Strata Company may establish a reserve fund for the purpose of accumulating funds to meet contingent expenses, other than those of a routine nature, and other major expenses of the strata company likely to arise in the future.	
<b>RESERVE FUND INCOME</b>	
Reserve Fund Levy	\$ 24,000.00
<b>TOTAL RESERVE FUND INCOME</b>	<b><u>\$ 24,000.00</u></b>

**RESERVE FUND CALCULATION**

Proposed reserve fund levy to the Strata Company will be calculated by:

1. Dividing the estimated reserve fund budget by the total unit entitlement of the scheme to obtain a sum per single unit entitlement.
2. The single unit entitlement amount is then multiplied by the unit entitlement per individual lot to calculate that lot's annual reserve fund levy.
3. The annual reserve fund levy is then divided by 4 and billed quarterly due and payable on the 1st day of the quarter.



**THE OWNERS OF QUAYHOUSE APARTMENTS**

**LOT 1011 BRUNSWICK STREET PORT COOGEE**

**PROPOSED ADMINISTRATIVE EXPENSES FUND BUDGET FOR 12 MONTHS FOLLOWING  
REGISTRATION**

<b>Annual Budget</b>	<b>\$ 105,197.00</b>	<b>\$ 10.52 /Unit Entitlement</b>
----------------------	----------------------	-----------------------------------

<b>Lot No</b>	<b>U.E.</b>	<b>PER ANNUM</b>	<b>PER QUARTER</b>
1	317	\$3,334.74	\$833.69
2	315	\$3,313.71	\$828.43
3	268	\$2,819.28	\$704.82
4	253	\$2,661.48	\$665.37
5	253	\$2,661.48	\$665.37
6	273	\$2,871.88	\$717.97
7	185	\$1,946.14	\$486.54
8	279	\$2,935.00	\$733.75
9	285	\$2,998.11	\$749.53
10	286	\$3,008.63	\$752.16
11	182	\$1,914.59	\$478.65
12	273	\$2,871.88	\$717.97
13	258	\$2,714.08	\$678.52
14	258	\$2,714.08	\$678.52
15	277	\$2,913.96	\$728.49
16	189	\$1,988.22	\$497.06
17	284	\$2,987.59	\$746.90
18	290	\$3,050.71	\$762.68
19	291	\$3,061.23	\$765.31
20	187	\$1,967.18	\$491.80
21	277	\$2,913.96	\$728.49
22	263	\$2,766.68	\$691.67
23	263	\$2,766.68	\$691.67
24	282	\$2,966.56	\$741.64
25	194	\$2,040.82	\$510.21
26	301	\$3,166.43	\$791.61
27	295	\$3,103.31	\$775.83
28	308	\$3,240.07	\$810.02
29	191	\$2,009.26	\$502.32
30	283	\$2,977.08	\$744.27
31	268	\$2,819.28	\$704.82
32	268	\$2,819.28	\$704.82
33	288	\$3,029.67	\$757.42
34	199	\$2,093.42	\$523.36
35	306	\$3,219.03	\$804.76
36	301	\$3,166.43	\$791.61
37	314	\$3,303.19	\$825.80
38	196	\$2,061.86	\$515.47
<b>TOTAL</b>	<b>10000</b>	<b>\$105,197.00</b>	<b>\$26,299.25</b>



**THE OWNERS OF QUAYHOUSE APARTMENTS**

**LOT 1011 BRUNSWICK STREET PORT COOGEE**

**PROPOSED RESERVE FUND BUDGET FOR 12 MONTHS FOLLOWING REGISTRATION**

<b>Annual Budget</b>	<b>\$ 24,000.00</b>	<b>\$ 2.40 /Unit Entitlement</b>
----------------------	---------------------	----------------------------------

<b>Lot No</b>	<b>U.E.</b>	<b>PER ANNUM</b>	<b>PER QUARTER</b>
1	317	\$760.80	\$190.20
2	315	\$756.00	\$189.00
3	268	\$643.20	\$160.80
4	253	\$807.20	\$151.80
5	253	\$807.20	\$151.80
6	273	\$655.20	\$163.80
7	185	\$444.00	\$111.00
8	279	\$669.60	\$167.40
9	285	\$684.00	\$171.00
10	286	\$686.40	\$171.60
11	182	\$436.80	\$109.20
12	273	\$655.20	\$163.80
13	258	\$619.20	\$154.80
14	258	\$619.20	\$154.80
15	277	\$664.80	\$166.20
16	189	\$453.60	\$113.40
17	284	\$681.60	\$170.40
18	290	\$696.00	\$174.00
19	291	\$698.40	\$174.60
20	187	\$448.80	\$112.20
21	277	\$664.80	\$166.20
22	263	\$631.20	\$157.80
23	263	\$631.20	\$157.80
24	282	\$676.80	\$169.20
25	194	\$485.60	\$116.40
26	301	\$722.40	\$180.60
27	295	\$708.00	\$177.00
28	308	\$739.20	\$184.80
29	191	\$458.40	\$114.60
30	283	\$679.20	\$169.80
31	268	\$643.20	\$160.80
32	268	\$643.20	\$160.80
33	288	\$691.20	\$172.80
34	199	\$477.60	\$119.40
35	306	\$734.40	\$183.60
36	301	\$722.40	\$180.60
37	314	\$753.60	\$188.40
38	196	\$470.40	\$117.60
<b>TOTAL</b>	<b>10000</b>	<b>\$24,000.00</b>	<b>\$6,000.00</b>

---

**Annexure D Notice of Exemption – Home Indemnity  
Insurance**

**Annexure to Contract of Sale – Quayhouse**

*This page has been intentionally left blank*

## NOTICE OF EXEMPTION

### *Home Building Contracts Act 1991 and Home Building Contracts (Home Indemnity Insurance Exemptions) Regulations 2002*

#### Form 2 - Developer's Notice

**Important notice about home indemnity insurance for multi-storey multi-unit developments where a developer sells off-the-plan to a purchaser before engaging a builder**

#### *The development or dwelling unit concerned*

1. This notice is about Quayhouse Apartments - Lot 1011 on Deposited Plan 406047 (being the land formerly comprised in Lots 1017 and Lot 1018 on Deposited Plan 72635) located at, 8 -10 Brunswick Street, North Coogee, Western Australia.

#### *Background to home indemnity insurance*

2. The *Home Building Contracts Act 1991* requires that the builder take out home indemnity insurance for residential building work costing over \$20,000, unless there is an exemption.
3. Generally, home indemnity insurance covers the person for whom the builder is doing the work against financial loss if the builder is unable to complete the work or meet a valid claim for faulty workmanship because the builder has died, disappeared or become insolvent. The insurance also covers any other person (in this case, you) obtaining the property from that person. In most cases the insurance policy must cover the construction period and the 6 years after practical completion of the building work.

#### *Exemption from the requirement to have insurance*

4. Building work on multi-storey multi-unit developments is exempt from the requirement for the builder to take out home indemnity insurance, provided that the builder of the development gives a notice (known as a builder's notice) to the person for whom the builder is doing the work. See the *Home Building Contracts (Home Indemnity Insurance Exemptions) Regulations 2002*.
5. Once the developer engages a builder and the builder has given the developer the builder's notice, the developer must give you a copy of the builder's notice within 10 days after receiving the notice.

#### *Why did you get this notice?*

6. This notice is to warn you that:
  - (a) the developer has not yet engaged a builder to carry out the building work for the development;
  - (b) it is likely that the builder will not take out home indemnity insurance for the building work; and
  - (c) you may not be in a position to assess the risk resulting from the builder not having home indemnity insurance for the building work (should that be the case).
7. If the builder does not have home indemnity insurance for the building work it means that:
  - (a) the developer; and

(b) you, as a person purchasing the property from the developer, are not insured against financial loss if the builder is unable to meet a valid claim for faulty workmanship because the builder has died, disappeared or become insolvent.

8. If you are in doubt about your rights, or you don't understand this notice, you should seek legal advice or contact the Department of Commerce Call Centre on 1300 30 40 54 (local call).



.....  
Developer - Open Corporation Funds Management Limited Date  
ACN 154 921 730 as trustee for the Open Corp  
Port Coogee Unit Trust by its duly constituted  
attorney Paul Matthew Wilson

I acknowledge that I have read this notice:



.....  
Person to whom the developer has given this notice

21-11-16

.....  
Date



.....  
Person to whom the developer has given this notice

21-11-16

.....  
Date

.....  
Person to whom the developer has given this notice

.....  
Date

.....  
Person to whom the developer has given this notice

.....  
Date



Annexure E Form 6

Annexure to Contract of Sale – Quayhouse

*This page has been intentionally left blank*



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

*Contaminated Sites Act 2003, section 68*

**NOTE:** Under the *Contaminated Sites Act 2003* section 68, this disclosure is to be given to a person at least 14 days before the completion of a transaction – in the case of a sale, settlement date; in the case of a mortgage, the date the mortgage is registered; and in the case of a lease, the date the lease is signed. A copy of this disclosure must be provided to the Department of Environment Regulation.

OWNER					
Family name:			Given name(s):		
Company (if applicable):	Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust				
ABN (if applicable):	38 154 921 730	Postal address:	Suite 15, 622 Ferntree Gully Road		
Suburb/Town:	Wheelers Hill, VICTORIA	Post code:	3150		
Phone:			Fax:		
Email:					

LAND / SITE DETAILS — DESCRIPTION OF LAND / SITE					
Lot No.	1017	and/or Street No.	8	Street name:	Brunswick Street
Certificate of Title (e.g. Reference No. / Volume and Folio and/or Lot on Plan / Diagram No.):	Volume 2797 Folio 913, Lot 1017 on Deposited Plan 72635		Suburb/Town:	North Coogee	
(incl. copy of Certificate of Title)			Post code:	6163	
			Local government:	City of Cockburn	

REASON FOR DISCLOSURE
<input checked="" type="checkbox"/> Sale
<input type="checkbox"/> Lease
<input type="checkbox"/> Mortgage

CLASSIFICATION AND / OR NOTICE UNDER THE ACT PART 4
As at (date) 12 November 2009
the land described in this form comprised all, or part, of a site classified under the <i>Contaminated Sites Act 2003</i> as:
<input type="checkbox"/> Contaminated - remediation required
<input type="checkbox"/> Contaminated - restricted use
<input checked="" type="checkbox"/> Remediated for restricted use



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

Contaminated Sites Act 2003, section 68

## AND/OR

As at (date)

a notice under the *Contaminated Sites Act 2003* Part 4 has been given, and a memorial lodged, in respect of the land described in this form. The notice is:

- an investigation notice
- a clean up notice
- a hazard abatement notice

## CONTAMINATION

The nature and extent of all identified contamination of the land described in this form is as follows:

There is a discrete plume of chromium, arsenic and nickel within the shallow groundwater beneath the site.

If, at the date set out in this form the land described in this form comprised all, or part, of a site classified under the *Contaminated Sites Act 2003* as:

- (a) contaminated - remediation required; or
- (b) contaminated - restricted use; or
- (c) remediated for restricted use;

then the restrictions on the use of the site are as follows:

The groundwater is not suitable for abstraction or use (including garden or public open space irrigation) without treatment for the presence of chromium contamination.

Note that under the *Contaminated Sites Act 2003* section 94, it is an offence to:

- make a statement in making this disclosure which you know is false or misleading in a material particular; or
- make a statement in making this disclosure which is false or misleading in a material particular, with reckless disregard as to whether the statement is false or misleading in a material particular; or
- provide, or cause to be provided, in making this disclosure, information that you know is false or misleading in a material particular; or
- provide, or cause to be provided, in making this disclosure information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material particular; or
- fail to disclose, or cause a failure to disclose, all information which you know is materially relevant to this disclosure statement



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

Contaminated Sites Act 2003, section 68

**IF THIS REPORT IS BEING MADE BY AN INDIVIDUAL**

Signature of person making the disclosure: \_\_\_\_\_

Date: \_\_\_\_\_ Title and full name: \_\_\_\_\_

Postal address: \_\_\_\_\_ Suburb/Town: \_\_\_\_\_

Post code: \_\_\_\_\_ Phone: \_\_\_\_\_


Fax: \_\_\_\_\_ Email: \_\_\_\_\_

OR

**IF THIS DISCLOSURE IS BEING MADE BY AN OWNER WHICH IS NOT AN INDIVIDUAL, IT MAY BE SIGNED ON BEHALF OF THE OWNER BY AN INDIVIDUAL AUTHORISED TO DO SO. IF THE OWNER IS A BODY CORPORATE, IT NEED NOT BE MADE UNDER ITS SEAL.**

I, Paul Matthew Wilson Position: Attorney

am authorised by Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust to make this disclosure on behalf of that body corporate.

Signature:  Date: 21-11-16

Title and full name: Paul Matthew Wilson, Partner, HWL Ebsworth Lawyers



Postal address: Level 11, 167 St Georges Terrace Suburb/Town: Perth

Post code: 6000 Phone: +61 8 9420 1519

Fax: 1300 704 211 Email: pwilson@hwle.com.au

**ACKNOWLEDGMENT BY THIRD PARTY (OPTIONAL)**

☉ Purchaser

Signature:  Date: 21-11-16 

Title and full name: \_\_\_\_\_

Postal address: \_\_\_\_\_ Suburb/Town: \_\_\_\_\_

Post code: \_\_\_\_\_ Phone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

Contaminated Sites Act 2003, section 68

## ACKNOWLEDGMENT BY THIRD PARTY (OPTIONAL)

Lessee

Signature:	_____	Date:	_____
Title and full name:	_____		
Postal address:	_____	Suburb/Town:	_____
Post code:	_____	Phone:	_____
Fax:	_____	Email:	_____

## ACKNOWLEDGMENT BY THIRD PARTY (OPTIONAL)

Mortgagee

Signature:	_____	Date:	_____
Title and full name:	_____		
Postal address:	_____	Suburb/Town:	_____
Post code:	_____	Phone:	_____
Fax:	_____	Email:	_____

**Give the original completed form to the potential owner / mortgagee / lessee and mail a copy to:**

Manager, Contaminated Sites Branch  
Department of Environment Regulation  
Locked Bag 33  
Cloisters Square  
Perth WA 6850

WESTERN



AUSTRALIA

REGISTER NUMBER <b>1017/DP72635</b>	
DUPLICATE EDITION <b>3</b>	DATE DUPLICATE ISSUED <b>17/12/2014</b>

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **2797** FOLIO **913**

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.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 1017 ON DEPOSITED PLAN 72635

**REGISTERED PROPRIETOR:  
(FIRST SCHEDULE)**

OPEN CORPORATION FUNDS MANAGEMENT LTD OF SUITE 15, 622 FERNTRHE GULLY ROAD, WHEELERS HILL, VICTORIA

(T M687659 ) REGISTERED 27 JUNE 2014

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

1. \*L333028 MEMORIAL. CONTAMINATED SITES ACT 2003 - AS TO PORTION ONLY. SEE SKETCH ON DEPOSITED PLAN 66995 REGISTERED 1.6.2010.
2. EASEMENT BURDEN CREATED UNDER SECTION 167 P. & D. ACT FOR TELECOMMUNICATIONS PURPOSES TO NBN CO LTD - SEE DEPOSITED PLAN 72635.
3. RESTRICTIVE COVENANT BENEFIT - SEE DEPOSITED PLAN 72635 AND INSTRUMENT M19733.
4. RESTRICTIVE COVENANT BURDEN - SEE DEPOSITED PLAN 72635 AND INSTRUMENT M19733.
5. M687661 MORTGAGE TO DORADO SYNDICATE 56 PTY LTD REGISTERED 27.6.2014.

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.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
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: DP72635.  
PREVIOUS TITLE: 2762-922.  
PROPERTY STREET ADDRESS: 8 BRUNSWICK ST, NORTH COOGEE.  
LOCAL GOVERNMENT AREA: CITY OF COCKBURN.



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

## Form 6 [r. 34]

### Contaminated Sites Act 2003, section 68

**NOTE:** Under the *Contaminated Sites Act 2003* section 68, this disclosure is to be given to a person at least 14 days before the completion of a transaction -- in the case of a sale, settlement date; in the case of a mortgage, the date the mortgage is registered; and in the case of a lease, the date the lease is signed. A copy of this disclosure must be provided to the Department of Environment Regulation.

OWNER					
Family name:			Given name(s):		
Company (if applicable):	Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust				
ABN (if applicable):	38 154 921 730	Postal address:	Suite 15, 622 Ferntree Gully Road		
Suburb/Town:	Wheelers Hill, VICTORIA	Post code:	3150		
Phone:			Fax:		
Email:					

LAND / SITE DETAILS — DESCRIPTION OF LAND / SITE						
Lot No.	1018	and/or	Street No.	10	Street name:	Brunswick Street
Certificate of Title (e.g. Reference No. / Volume and Folio and/or Lot on Plan / Diagram No.):			Suburb/Town:			North Coogee
Volume 2797 Folio 914, Lot 1018 on Deposited Plan 72635			Post code:			6163
(Incl. copy of Certificate of Title)			Local government:			City of Cockburn

REASON FOR DISCLOSURE
<input checked="" type="checkbox"/> Sale
<input type="checkbox"/> Lease
<input type="checkbox"/> Mortgage

CLASSIFICATION AND / OR NOTICE UNDER THE ACT PART 4
As at (date) 12 November 2009 the land described in this form comprised all, or part, of a site classified under the <i>Contaminated Sites Act 2003</i> as:
<input type="checkbox"/> Contaminated - remediation required
<input type="checkbox"/> Contaminated - restricted use
<input checked="" type="checkbox"/> Remediated for restricted use





# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

Contaminated Sites Act 2003, section 68

## AND/OR

As at (date)

a notice under the *Contaminated Sites Act 2003* Part 4 has been given, and a memorial lodged, in respect of the land described in this form. The notice is:

- an investigation notice
- a clean up notice
- a hazard abatement notice

## CONTAMINATION

The nature and extent of all identified contamination of the land described in this form is as follows:

There is a discrete plume of chromium, arsenic and nickel within the shallow groundwater beneath the site.

If, at the date set out in this form the land described in this form comprised all, or part, of a site classified under the *Contaminated Sites Act 2003* as:

- (a) contaminated - remediation required; or
- (b) contaminated - restricted use; or
- (c) remediated for restricted use;

then the restrictions on the use of the site are as follows:

The groundwater is not suitable for abstraction or use (including garden or public open space irrigation) without treatment for the presence of chromium contamination.

Note that under the *Contaminated Sites Act 2003* section 94, it is an offence to:

- make a statement in making this disclosure which you know is false or misleading in a material particular; or
- make a statement in making this disclosure which is false or misleading in a material particular, with reckless disregard as to whether the statement is false or misleading in a material particular; or
- provide, or cause to be provided, in making this disclosure, information that you know is false or misleading in a material particular; or
- provide, or cause to be provided, in making this disclosure information that is false or misleading in a material particular, with reckless disregard as to whether or not the information is false or misleading in a material particular; or
- fail to disclose, or cause a failure to disclose, all information which you know is materially relevant to this disclosure statement



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

Contaminated Sites Act 2003, section 68

**IF THIS REPORT IS BEING MADE BY AN INDIVIDUAL:**

Signature of person making the disclosure: \_\_\_\_\_

Date: \_\_\_\_\_ Title and full name: \_\_\_\_\_

Postal address: \_\_\_\_\_ Suburb/Town: \_\_\_\_\_

Post code: \_\_\_\_\_ Phone: \_\_\_\_\_


Fax: \_\_\_\_\_ Email: \_\_\_\_\_

OR

**IF THIS DISCLOSURE IS BEING MADE BY AN OWNER WHICH IS NOT AN INDIVIDUAL, IT MAY BE SIGNED ON BEHALF OF THE OWNER BY AN INDIVIDUAL AUTHORISED TO DO SO. IF THE OWNER IS A BODY CORPORATE, IT NEED NOT BE MADE UNDER ITS SEAL.**

I, Paul Matthew Wilson Position: Attorney

am authorised by Open Corporation Funds Management Limited ACN 154 921 730 as trustee for the Open Corp Port Coogee Unit Trust to make this disclosure on behalf of that body corporate.

Signature:  Date: 21.11.16

Title and full name: Paul Matthew Wilson, Partner, HWL Ebsworth Lawyers

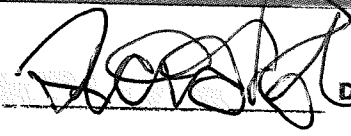

Postal address: Level 11, 167 St Georges Terrace Suburb/Town: Perth

Post code: 6000 Phone: +61 8 9420 1519

Fax: 1300 704 211 Email: pwilson@hwle.com.au

**ACKNOWLEDGMENT BY THIRD PARTY (OPTIONAL)**

Purchaser

Signature:  Date: 21.11.16 

Title and full name: \_\_\_\_\_

Postal address: \_\_\_\_\_ Suburb/Town: \_\_\_\_\_

Post code: \_\_\_\_\_ Phone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_



# LAND OWNER'S DISCLOSURE BEFORE COMPLETION OF LAND TRANSACTION

Form 6 [r. 34]

Contaminated Sites Act 2003, section 68

## ACKNOWLEDGMENT BY THIRD PARTY (OPTIONAL)

Lessee

Signature:	_____	Date:	_____
Title and full name:	_____		
Postal address:	_____	Suburb/Town:	_____
Post code:	_____	Phone:	_____
Fax:	_____	Email:	_____

## ACKNOWLEDGMENT BY THIRD PARTY (OPTIONAL)

Mortgagee

Signature:	_____	Date:	_____
Title and full name:	_____		
Postal address:	_____	Suburb/Town:	_____
Post code:	_____	Phone:	_____
Fax:	_____	Email:	_____

**Give the original completed form to the potential owner / mortgagee / lessee and mail a copy to:**

Manager, Contaminated Sites Branch  
Department of Environment Regulation  
Locked Bag 33  
Cloisters Square  
Perth WA 6850

WESTERN



AUSTRALIA

REGISTER NUMBER <b>1018/DP72635</b>	
DUPLICATE EDITION <b>3</b>	DATE DUPLICATE ISSUED <b>17/12/2014</b>

**RECORD OF CERTIFICATE OF TITLE**  
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME 2797 FOLIO 914

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.

  
REGISTRAR OF TITLES



**LAND DESCRIPTION:**

LOT 1018 ON DEPOSITED PLAN 72635

**REGISTERED PROPRIETOR:**  
(FIRST SCHEDULE)

OPEN CORPORATION FUNDS MANAGEMENT LTD OF SUITE 15, 622 FERNTREE GULLY ROAD, WHEELERS HILL, VICTORIA

(T M687659 ) REGISTERED 27 JUNE 2014

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

1. \*L333028 MEMORIAL. CONTAMINATED SITES ACT 2003 - AS TO PORTION ONLY. SEE SKETCH ON DEPOSITED PLAN 66995 REGISTERED 1.6.2010.
2. RESTRICTIVE COVENANT BENEFIT - SEE DEPOSITED PLAN 72635 AND INSTRUMENT M19733.
3. RESTRICTIVE COVENANT BURDEN - SEE DEPOSITED PLAN 72635 AND INSTRUMENT M19733.
4. M687661 MORTGAGE TO DORADO SYNDICATE 56 PTY LTD REGISTERED 27.6.2014.

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.  
\* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.  
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: DP72635.  
PREVIOUS TITLE: 2762-922.  
PROPERTY STREET ADDRESS: 10 BRUNSWICK ST, NORTH COOGEE.  
LOCAL GOVERNMENT AREA: CITY OF COCKBURN.