

Local Government Regulation 2012 (section 144)

SALES NOTICE

<u>GLADSTONE REGIONAL COUNCIL</u> (PURSUANT TO CHAPTER 4 PART 12 DIVISION 3 OF *LOCAL GOVERNMENT REGULATION 2012*) offers the following vacant land for sale by negotiation pursuant to section 144 of *Local Government Regulation 2012*:

Address: 27B Agnes Street, South Gladstone Qld 4680

Real Property Description: Lot 7 on SP 260270

Title Reference: 51008516

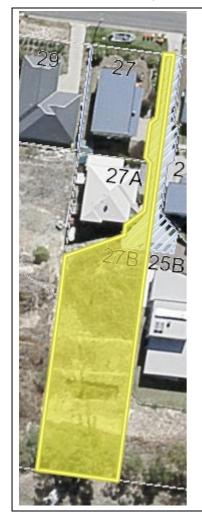
Type: Freehold

Area: 1,159m2 more or less

Local Government: Gladstone Regional Council

Title Encumbrances: Easement in Gross 709691006, Easement 709691001, Easement 709690995,

Easement 709690991, Easement 709690967







Please note: Property is sold as is where is and no warranties or representations are given by Council. Refer to contract terms

Council discloses that:

- (1) earthworks were performed historically on the Property without operational works approval which has been the subject of ongoing dispute with an adjoining owner (refer detail survey of the excavation of the subject boundary); and
- (2) the excavation works included excavation for a future pool. The Buyer agrees that it is the Buyer's responsibility to make its own enquiries and to comply with all laws and/or notices relating to pool safety.
 - detail survey of boundary excavation works
 - drawings from lapsed OPW application

Offers can be made by completing and submitting a signed Contract in the required template.

CONTRACT OF SALE - RESIDENTIAL LAND

Items Schedule

1.	Contract Date						
2.	Seller	Gladstone Regional Council (pursuant to Chapter 4 Part 12 Division 3 of <i>Local Government Regulation 2012</i>)					
		ABN 27 330 979 106					
		P O Box 29					
		Gladstone Q 4680					
		Ph: 07 49700700					
		Email: info@gladstone.qld.gov.au					
3.	Seller's Solicitor	Name: Bernadette Le Grand					
		Position: General Counsel					
		Telephone: 0437 726184					
		Email: Bernadette.legrand@gladstone.qld.gov.au					
4.	Buyer	Name:					
		ABN:					
		Address:					
		Ph:					
		email:					
		Name:					
		ABN:					
		Address:					
		Ph:					
		email:					
5.	Buyer's Solicitor	Name:					
		Contact:					
		Address:					
		Telephone					
		Telephone:					
		Email:					

6.	Land	Address: 27B Agnes Street								
		South Gladstone Qld 4680								
		Description: Lot 7 on SP 260270								
		Title Reference: 51008516								
		Built on/Vacant								
		Freehold /Leasehold								
		Area: 1,159m2 -more or less								
		Local Government: Gladstone Regional Council								
7.	Purchase Price									
8.	Deposit	10% of Purchase Price ie –								
		Payable to Gladstone Regional Council								
		Bank – Commonwealth Bank of Australia								
		BSB – 064 705								
		Account number – 10440897								
		Reference: 27B Agnes								
9.	Title Encumbrances	Easement in Gross 709691006								
		Easement 709691001								
		Easement 709690995								
		Easement 709690991								
		Easement 709690967								
10.	Settlement Date									
11.	Place for Settlement	Gladstone Regional Council, 101 Goondoon Street, Gladstone Q 4680								
12.	Default Interest Rate	6% per annum								

The Seller agrees to sell and the Buyer agrees to buy the Property for the Purchase Price on the terms and conditions of this Contract.

A termination penalty of 0.25% of the Purchase Price applies if the Buyer terminates this Contract during the 5 Business Day statutory cooling off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice before signing.

BUYER:	WITNESS:
BUYER:	WITNESS:
SELLER: Authorised delegate of Gladstone Regional Council	WITNESS:

TERMS AND CONDITIONS

THE PARTIES AGREE AS FOLLOWS:-

1. Interpretation

1.1 Definitions

Terms in bold type in the Items Schedule have the meanings shown opposite. The following definitions also apply:

"Balance Purchase Price" means the Purchase Price less:

- (1) the Deposit paid by the Buyer; and
- (2) any rates adjustment under clause 6.5;

"Bank" means an authorised deposit taking institution as defined in Banking Act 1959 (Cth);

"Bank Cheque" means a cheque drawn by a bank, building society or credit union on itself but does not include a cheque drawn by a building society or credit union on a bank;

"Business Day" means a day that is not:

- (1) a Saturday or Sunday;
- (2) a public holiday, bank holiday or special holiday in Gladstone; or
- (3) a day in the period 27 to 31 December inclusive;

"Contract" means this contract and all schedules, appendices and annexures to it;

"Delay Event" means circumstances which could not have been reasonably foreseen by a party and are outside the control of either party including but not limited to:

- (1) act of God;
- (2) severe weather event;
- (3) bushfire;
- (4) Government direction or pandemic;
- (5) circumstance preventing the Seller from being able to settle (eg Court injunction);

"Encumbrances" includes registered, unregistered and statutory encumbrances and security interests;

"GST" means goods and services tax under A New Tax System (Goods and Services Tax) Act 1999:

"Improvements" means any fixed structures on the Land and includes all items fixed to them;

"Property" means the Land and any Improvements;

"Transfer Documents" means the form 1 transfer and form 24 as required under Land Title Act 1994 to transfer title in the Land to the Buyer.

1.2 Construction

In this Contract, except where the context otherwise requires, reference to:-

- (a) a person includes:-
 - (i) a corporation, incorporated association or government body; and
 - (ii) the legal representatives, successors and assigns of that person;
- (b) a right includes a remedy authority or power;
- (c) a gender includes all genders;

- (d) the singular includes the plural and the plural includes the singular; and
- (e) any Act includes all amendments or substitutions for that act and the regulations made under that Act.

1.3 Headings

Headings are for convenience only and do not affect the interpretation or form part of this Contract.

1.4 Severability

If a provision contained in this Contract is invalid or unenforceable, that provision will as far as possible be read down to the extent necessary for it to be valid or enforceable but, if it cannot be read down, it will severed from the document and the remaining provisions will remain in full force and effect.

1.5 Entire Understanding

This Contract contains the entire agreement and understanding between the parties on everything connected with the subject matter of this Contract and supersedes any prior agreement or understanding on anything connected with that subject matter.

1.6 Governing Law

This Contract is governed by the laws of Queensland and each party submits to the jurisdiction of the courts of Queensland.

1.7 Business Days

If anything required to be done under this Contract falls on a day which is not a Business Day, it must instead be done on the next Business Day.

1.8 Joint and Several Obligations

If two or more persons are named as Buyer this Contract binds them jointly and each of them severally.

2. Purchase Price and Deposit

- 2.1 The Buyer must pay the Deposit by cash, credit card or electronic transfer to the Seller on the signing of the Contract by the Buyer. The Deposit is non-refundable (other than as provided under clauses 3.1, 7.4, 8.1 and 14) and the Seller is entitled to it on the Contract Date.
- 2.2 The Purchase Price is inclusive of any GST payable on the supply of the Property to the Buyer.
- 2.3 The Seller may recover from the Buyer as a liquidated debt any part of the Deposit not paid when required.
- 2.4 On the Settlement Date the Buyer must pay the Balance Purchase Price by Bank Cheque or electronic payment to the Seller's bank account (details in Item 8 of Items Schedule).
- 2.5 On any payment being made by or on behalf of the Buyer to the Seller's bank account the Buyer must email banking@gladstone.qld.gov.au and advise amount and purpose of the payment and name required on the receipt.

3. Termination if Arrears paid prior to Contract Date

3.1 If the Seller becomes aware prior to the Settlement Date that payment of overdue rates and charges on the Land was made prior to the Contract Date, the Seller may terminate this Contract by giving written notice to the Buyer as soon as possible after becoming so aware and the Seller must refund the Deposit to the Buyer. The Contract will then be at an end and

the Buyer will have no further claim against the Seller (other than for refund of the Deposit).

4. Rights and Obligations Until Settlement

- 4.1 The Property is at the Buyer's risk from signing of the Contract by the Buyer.
- 4.2 The Buyer acknowledges that, as the Seller is not the owner of the Property and is acting pursuant to *Local Government Act 2009* and *Local Government Regulation 2012* in the sale of the Property, the Seller:
 - (1) cannot provide any access to the Property or any information relating to the Property;
 - (2) is not responsible for any change in condition of the Property between the Contract Date and Settlement Date; and
 - (3) is not liable to comply with any requisition or notice issued for the Property whether issued before or after the Contract Date.

5. Property sold "as is where is"

- 5.1 The Buyer acknowledges that the Seller is not the owner of the Property and is acting pursuant to *Local Government Act 2009* and *Local Government Regulation 2012* in the sale of the Property, and accordingly the Seller:
 - (1) makes no representations as to the quality or condition of the Property or that the use is lawful:
 - (2) has no knowledge of whether the Property is or is not affected by an application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) or other court in relation to the Land and the Buyer accepts the Property subject to any such notice or order as may exist; and
 - (3) other than as disclosed in clause 5.3, has no knowledge as to whether all required approvals or permits have been obtained for the Property (or any Improvements on the Property), whether Improvements are legally compliant or structurally sound, or whether any notice has been issued by any Government authority relating to the Property or requiring any works on the Property.
- 5.2 The Buyer agrees that, despite any other provision of this Contract:
 - (1) the Buyer accepts the Property, including any Improvements, in their "as is where is" state and condition (with all faults and defects) and will make no objection, requisition, claim for compensation or claim any right to rescind or terminate this Contract;
 - (2) the Buyer has not relied on any representations or information provided by the Seller or any agent or employee of the Seller and has entered into this Contract voluntarily based on the Buyer's own enquiries and investigations;
 - (3) the Buyer must make the Buyer's own arrangements at the Buyer's risk and cost to obtain vacant possession of the Property after settlement;
 - (4) it is the Buyer's responsibility to make its own enquiries in respect to the Property and to comply with all relevant laws, and any notices relating to the Property whether issued before or after the Contract Date;
 - (5) there are no chattels included in the sale;
 - (6) the Seller is not liable for any outgoings on the Property; and
 - (7) the Seller is not liable for any:

- (a) error in the boundaries or area of the Land:
- (b) encroachment by structures onto or from the Land;
- (c) mistake or omission in describing the Property or title to it; or
- (d) earthworks performed on the Property;

whether material or immaterial.

5.3 The Seller discloses that:

- (1) earthworks were performed historically on the Property without operational works approval which has been the subject of ongoing dispute with an adjoining owner. Annexure A is a copy of a detail survey of the excavation of the subject boundary; and
- (2) the excavation works included excavation for a future pool. The Buyer agrees that it is the Buyer's responsibility to make its own enquiries and to comply with all laws and/or notices relating to pool safety.

6. Settlement

- 6.1 Settlement must occur between 9am and 4pm Australian Eastern Standard Time on the Settlement Date at 101 Goondoon Street, Gladstone in the state of Queensland.
- 6.2 The Seller will provide signed Transfer Documents to the Buyer in return for payment of the Balance Purchase Price. The Buyer will be responsible for completing the Transfer Documents with the Buyer's information.
- 6.3 The Property is sold subject to:
 - (1) the Title Encumbrances;
 - (2) interests registered on the survey plan and any administrative advice that may be recorded on any register of title in respect to the Property; and
 - (3) any tenancy to which the Property may be subject at the Settlement Date.
- 6.4 On settlement, the Seller:
 - (1) does not have to produce any instrument of title or release of any Encumbrance which affects the Property (refer section 145 of *Local Government Regulation 2012*);
 - (2) cannot provide keys, remotes or codes for the Property;
 - (3) is not responsible for removing any chattels or rubbish from the Property; and
 - (4) is not required to provide vacant possession of the Property.
- 6.5 If the Settlement Date is after 1 July 2022, the Seller will allow an adjustment on settlement in favour of the Buyer for the rates and charges for the Property for the period from 1 July 2022 to and including the Settlement Date calculated on the amount payable for the 2021-2022 financial year and the Buyer must pay the full amount of the rates and charges for the Property for the 2021-2022 financial year on the later of when payment becomes due or the Settlement Date.
- Following settlement the Seller will apply the proceeds of sale in the manner required under s146 of Local Government Regulation 2012.

7. Time

7.1 Time is of the essence of this Contract.

- 7.2 If a party ("Affected Party") is unable to settle solely as a consequence of a Delay Event, the Affected Party:
 - (1) must take reasonable steps to minimise the effect of the Delay Event on its ability to settle; and
 - (2) may give notice to the party of the details of the Delay Event and a proposed alternate Settlement Date.
- 7.3 The Settlement Date will be extended for the period that the Delay Event prevents settlement.
- 7.4 If a Delay Event will prevent the Seller from being able to settle within 60 days of the Contract Date, either party may terminate this Contract by written notice to the other and the Seller will refund the Deposit to the Buyer within 14 days of such notice.

8. Default

- 8.1 If the Seller breaches this Contract and fails to remedy the breach within a reasonable time of notice from the Buyer, the Buyer may terminate this Contract and recover the Deposit from the Seller as a liquidated debt (which shall be the Buyer's sole remedy).
- 8.2 If the Buyer breaches this Contract, and fails to remedy the breach within a reasonable time of notice from the Seller, the Seller may:
 - (1) affirm this Contract and sue the Buyer for:
 - (a) damages;
 - (b) specific performance; or
 - (c) specific performance and damages; or
 - (2) terminate this Contract and do all or any of the following:
 - (a) forfeit the Deposit;
 - (b) sue the Buyer for damages:
 - (c) resell the Property.
- 8.3 If the Seller terminates this Contract and resells the Property:
 - (1) the Seller may, provided the resale settles within 1 year of termination of this Contract, recover from the Buyer as liquidated damages:
 - (a) any deficiency in price on resale; and
 - (b) its expenses on any failed attempt to resell and the resale; and
 - (2) the Buyer has no claim in respect to any profit on resale.
- 8.4 The Buyer must pay interest at the Default Interest Rate on any late payment under this Contract from the date due for payment until the date paid.

9. Notices

- 9.1 Any notice given under this Contract must be in writing and may be given or received by a party's solicitor.
- 9.2 For the purposes of sections 11 and 12 of *Electronic Transactions (Queensland) Act 2001* the Seller and Buyer consent to information and notices being given by electronic communication.
- 9.3 Any party may serve a notice on another party by sending it to the email address of the party's solicitor(s) specified in the Items Schedule, or if no solicitor is appointed, by:-
 - (1) giving it to that party personally;

- (2) posting it to the address of that party in the Items Schedule; or
- (3) sending it to that party's email address in the Items Schedule.
- 9.4 When served by post a notice will be deemed to have been received on the seventh business day after posting and when sent by email shall be deemed to have been received at the time at which a delivery notification is received by the sender.

10. Counterparts and Electronic Transmission

This Contract may be signed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same document. The parties agree that pursuant to the *Electronic Transactions (Queensland) Act 2001*, this Contract may be transmitted electronically and shall be formed upon both parties signing an electronic copy (including by electronic signature) whether received or transmitted by email.

11. Costs

- 11.1 Each party must pay its own costs of and incidental to this Contract, however the Buyer:
 - (1) must pay all duties payable under this Contract pursuant to the *Duties Act 2001* and is responsible for stamping of this Contract and the Transfer; and
 - (2) is responsible for and must pay all costs of registration of the Transfer Documents with Department of Resources.
- 11.2 In the event the Buyer does not pay duty under clause 11.1 the Seller may make payment and recover the cost from the Buyer as a liquidated debt.

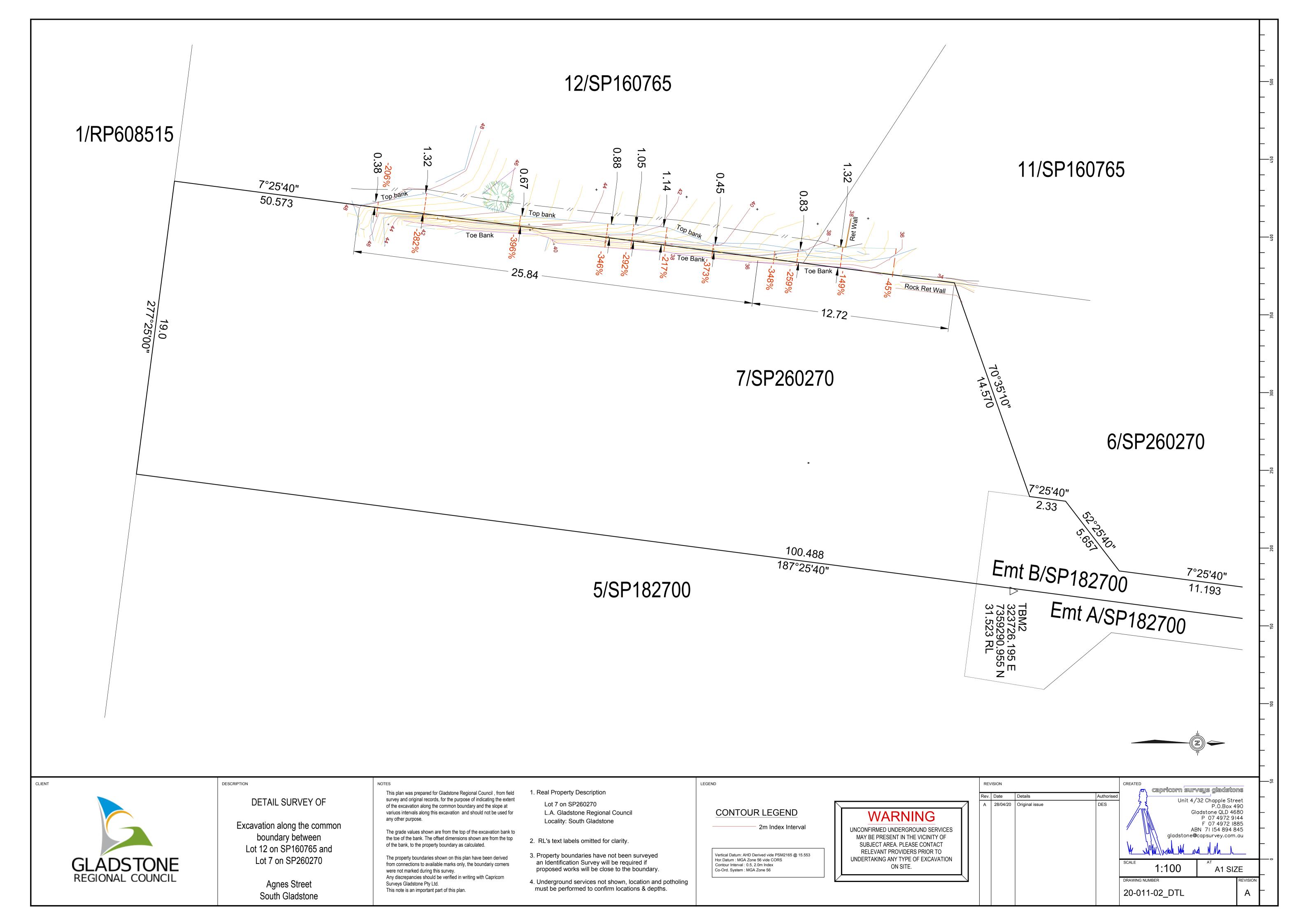
12. Buyer's Statements

- 12.1 The Buyer states and warrants to the Seller that:
 - (1) the Buyer (if a company) is duly incorporated and validly existing under law and has full power and authority to execute and comply with the terms of this Contract;
 - (2) this Contract constitutes a legal, valid, binding and enforceable obligation of the Buyer;
 - (3) the Buyer is solvent and can pay its debts as and when they become due; and
 - (4) the Buyer has full capacity to comply with the Buyer's obligations under this Contract.
- 12.2 In the event the Buyer has entered into this Contract as trustee of any trust ("the Trust"), whether or not the existence of the trust has been notified to the Seller, then:
 - (1) the Buyer declares that the Buyer enters into this Contract as trustee of the Trust:
 - (2) the Buyer warrants to the Seller that:
 - (a) the Trust is validly created;
 - (b) there is no other trustee of the Trust other than the Buyer and the Buyer has been validly appointed as trustee;
 - (c) the Buyer has full and free power and authority to enter into the Contract and to perform all obligations of the Buyer under this Contract;
 - (d) entry into this Contract is for the benefit of the beneficiaries of the Trust; and
 - (e) there is no restriction on the Buyer's right of indemnity under the Trust.

13 General

13.1 The non-exercise or delay in exercising any power or right of a party does not operate as a waiver of that power or right, unless this is expressly agreed in writing.

- 13.2 This Contract cannot be amended or varied except by written agreement signed by the parties.
- 13.3 Neither party may assign its interest under this Contract to another.
- 13.4 Despite settlement and registration of the transfer, any term of this Contract that can take effect after settlement or registration remains in force.



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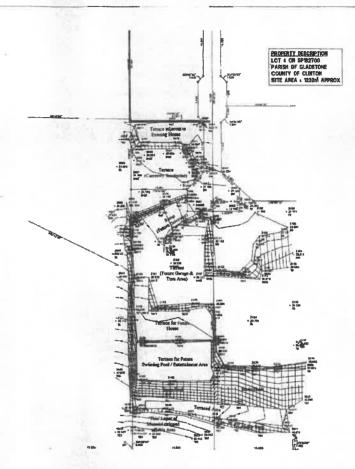
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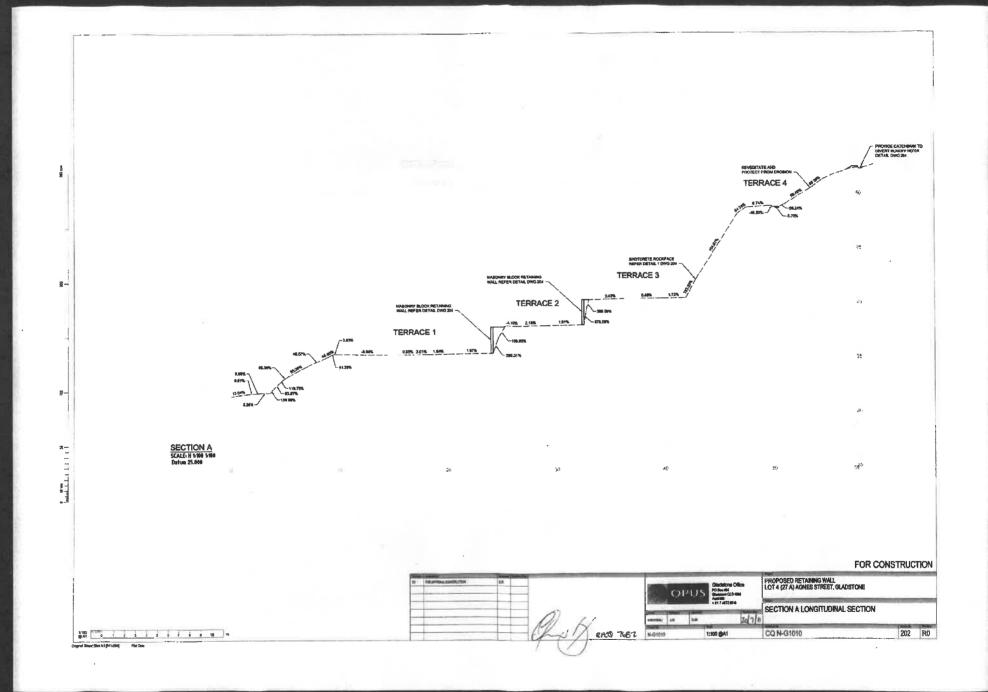


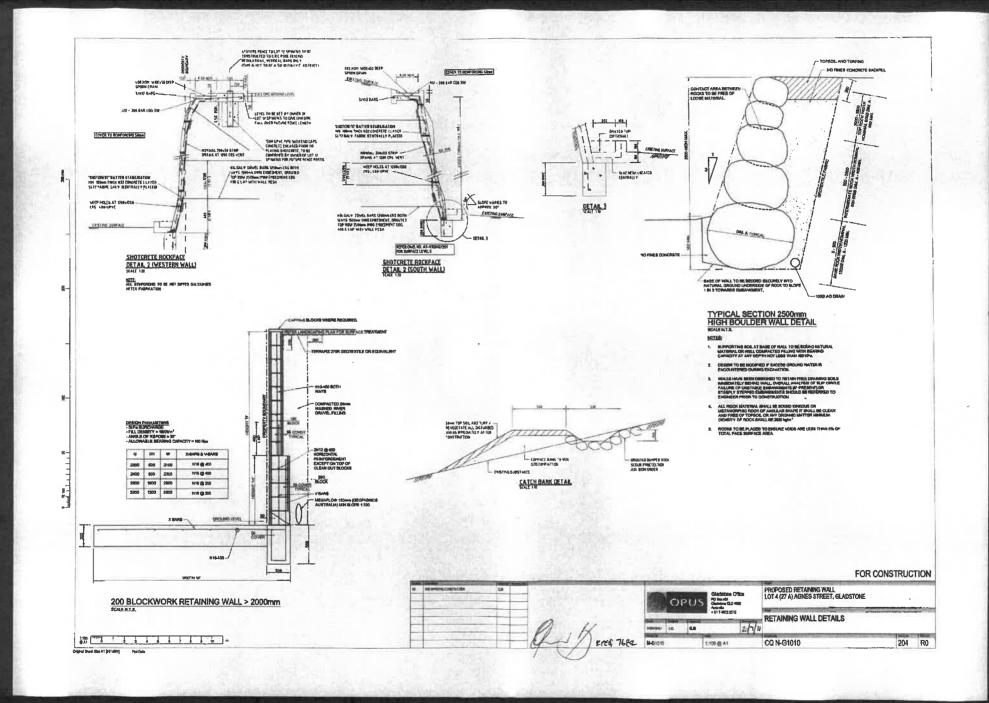
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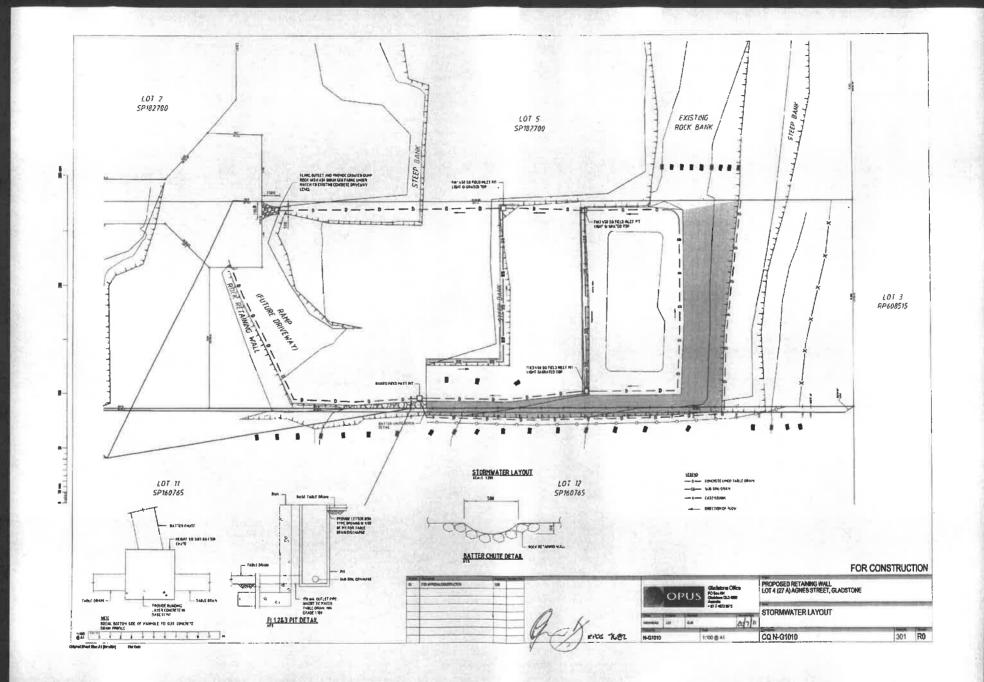
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