

Heads of Agreement

General Heads of Agreement

Date: 15 December 2014



Knightsbridge North Lawyers

Level 8, 75 Miller Street
NORTH SYDNEY NSW 2060
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North Sydney NSW 2059
Phone: +612 8011 1347
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admin@knightsbridgenorthlawyers.com

THIS DEED OF HEADS OF AGREEMENT dated 15 DECEMBER 2014

PARTIES:

- 1 GOWS HEAT PTY LTD of Level 5, 44 Miller Street, North Sydney NSW 2060 ("The Purchaser")**

OF THE FIRST PART

AND

- 2. THE AWABAKAL ABORIGINAL LAND COUNCIL of 127 Maitland Road ISLINGTON 2296 ("The Vendor")**

OF THE SECOND PART

Recitals

- A. The parties have agreed in principle to enter into a contract, the particulars of which are contained in this Heads of Agreement.
- B. Upon signing this Heads of Agreement a formal contract will be prepared. Until signature and exchange of that contract this Heads of Agreement will prevail.

Terms

I HEADS OF AGREEMENT

- (a) These Heads of Agreement of the sale of the properties identified in schedule 1 constitutes an agreement between the parties. This document is a binding contract, and is intended to be superseded by the contracts substantially similar in the draft form attached as Annexure A to this Agreement which will be complete on the conclusion of the valuation process undertaken by the Vendor.
- (b) In consideration for doing so, including the taking of steps of arranging finance and other measures, the parties agree that the costs and disbursements of the preparation of the Contract will be borne equally by the parties to this Heads of Agreement.
- (c) The Contract will include the terms set out below. It will also contain additional terms, but they will not be unusual or unreasonable.

II TERMS OF CONTRACT

1 DEFINITIONS & INTERPRETATION

1.1 Definitions

In this Deed, unless otherwise indicated by the context:

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- (a) Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in the state in which the subject matter of this agreement is to be performed Sydney;
- (b) Business Hours means from 9.00 am to 5.00 pm on a Business Day;
- (c) Force Majeure Event means any:
 - (i) act of God;
 - (ii) outbreak or escalation of hostilities (whether or not war has been declared) or any other unlawful act against public order or authority;
 - (iii) industrial dispute;
 - (iv) restraint; or
 - (v) other event which is not within the reasonable control of the parties;
- (d) Person includes a natural person, body corporate, partnership, joint venture, association or other incorporated or unincorporated legal entity;
- (e) Ineffective means void, illegal or unenforceable;

1.2 Interpretation

In this Agreement, unless otherwise indicated by the context:

- (a) the singular includes the plural and vice versa; words importing a gender include the other genders;
- (b) other grammatical forms of defined words or phrases have corresponding meanings;
- (c) use of a term denoting subject matter which comprises more than one part or aspect includes a reference to each or any part or aspect of the subject matter;
- (d) a reference to a clause, part of a clause, schedule or annexure is a reference to that clause, part of a clause, schedule or annexure to this document and a reference to this document includes its schedules and any annexures;
- (e) a reference to writing includes typewriting, printing, lithography, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form;
- (f) the word 'person' includes an individual, a firm, body corporate, unincorporated association, incorporated association or a Public Authority;
- (g) where a party comprises two or more persons an agreement or obligation binding that party binds those persons jointly and severally;
- (h) a reference to a party includes that party's successors and permitted assigns;
- (i) a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (j) a reference to 'dollar', '\$', '\$A', '\$A\$'; or 'AUD' is a reference to Australian currency; and
- (k) a reference to a specific time for the performance of an obligation is a reference to that time in the state or territory where the obligation is to be performed;
- (l) References to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under, the legislation;
- (m) a reference to a body,

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- (i) whether statutory or not;
 - (A) which ceases to exist; or
 - (B) whose powers or functions are transferred to another body
- (ii) is a reference to the body which replaces it or which substantially takes over its powers or functions.

2 TERMS

- 2.1 The Purchaser agrees to buy and the Vendor agrees to sell the land identified in the schedule for the market value determined by the valuer appointed by the Vendor.
- 2.2 The payments will be made as follows:
 - (a) a deposit of \$10% on the execution of completed contracts;
 - (b) the balance in 180 days.
- 2.3 Any delay in the execution of the final form of agreement in schedule A; the transfer in title to the Purchaser, the making of the deposit will incur a financing charge of 2% per month to the defaulting party which is agreed by the parties as being the reasonable costs incurred for the delay.

3 GENERAL PROVISIONS

3.1 Counterparts

- (a) This Deed may be executed in any number of counterparts.
- (b) Each counterpart will be an original and all counterparts together will constitute one and the same instrument.
- (c) The date of the Deed will be the date on which it is executed by the last party.

4 Force majeure

No party shall be considered in default under this Deed as long as its failure to perform any of its obligations is occasioned solely by fire, labour disturbance, acts of civil or military authorities, acts of God, terrorism or any similar cause beyond such party's reasonable control.

4.1 Further assurance

Each party will from time to time do all things necessary or desirable to give full effect to this Deed, including executing further documents including appointing each other as power of attorney to do such acts and execute such documents as is necessary and convenient to effecting the objective of this agreement.

4.2 Governing law and jurisdiction

This Deed is governed by the laws of New South Wales. Each party irrevocably submits to the jurisdiction of the courts of New South Wales.

4.3 Notices

A notice by one party to another must be in writing and:

- (a) delivered personally;
- (b) sent by registered mail to the address of the addressee specified in this Deed; or

- (c) sent by facsimile transmission to the facsimile number of the addressee.

A party may change its address for service by giving notice of that change in writing to the other parties.

4.4 Service of notices

- (a) For the purpose of the notice under this clause, a party's address is the address specified at the commencement of this Deed or as notified to each other party.
- (b) A notice may be served by:
 - (i) giving it to a party personally,
 - (ii) by posting it by registered post or
 - (iii) by faxing it.
- (iv) When a Notice is Received by Post
 - (A) If the notice is posted by registered post it is deemed to be received by the receiving party two Business Days after posting.
- (v) When a Notice is Received by Fax
 - (A) If the notice is faxed it is deemed to be received by the receiving party when the completed transmission report is received, unless:
 - (B) the sending party's machine indicates a malfunction in transmission, or the receiving party within a reasonable time (and in any event no longer than two Business Days) informs the sending party of an incomplete transmission; or
 - (C) the transmission is completed outside Business Hours at the receiver's address in which case the notice is regarded as received at the commencement of business on the following Business Day in that place.

4.5 Severability

If a clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Deed.

4.6 Survival & merger

- (d) The terms of this Deed survive its termination to the extent permitted by law.
- (e) Nothing in this Deed merges, extinguishes, postpones, lessens or otherwise prejudicially affects any right, power or remedy that a party may have against it.

4.7 Variation

A variation or waiver of a provision of this Deed will be ineffective unless it is:

- (f) in writing and;
- (g) executed by the parties.

4.8 Waiver

- (h) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- (i) The exercise of a power or right does not preclude:
 - (i) its future exercise; or
 - (ii) the exercise of any other power or right.

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4.9 Warranties and representations

- (j) Each party warrants that they have not relied on any prior oral or written warranty or representation in relation to the subject matter of this Deed.
- (k) Each party relies on its own enquiries in relation to the subject matter of this Deed.
- (l) This clause does not apply to warranties and representations that this Deed expressly refers to and incorporates by reference.

4.10 Whole agreement

This Deed constitutes the whole Deed between the parties and supersedes all oral and written communications between them.

Execution

Executed as a deed

<p>EXECUTED for and on behalf of GOWS HEAT PTY LTD by those with authority to so act</p> <p><i>[Signature]</i></p>	<p>applied by P.O.A.</p> <p><i>[Signature]</i></p>
<p>Signature of Director</p> <p><i>JASON LATOVELLO</i></p> <p>Name of Director</p>	<p>Common Seal</p> <p>Gows Heat Pty Ltd</p> <p>A.C.N. 121 653 254</p> <p>12/10/15</p> <p>Common Seal</p> <p>Secretary</p> <p>Name of Secretary</p>

<p>EXECUTED for and on behalf of the AWABAKAL ABORIGINAL LAND COUNCIL by those with authority to so act.</p>	
<p><i>RICHARD GREEN</i></p> <p>Signature of Director</p> <p><i>[Signature]</i></p> <p>Name of Director</p>	<p>Signature of Director/Secretary</p> <p>Name of Director/Secretary</p>

Yo, Lcdo. Carlos Alberto Cedeño Carrus Notario Público Tercero por este instrumento, certifico con cédula de identidad personal Número 4-714-1671
CERTIFICO: Que he comparado y cotejado esta copia fotostática con su original que me ha sido presentado y la he encontrado en un todo conforme al mismo.

En la ciudad de Port-au-Prince, el día 19 de octubre de 2015.

[Signature]
Lcdo. Carlos Alberto Cedeño Carrus
Notario Público Tercero

Schedule 1

14 Vermont Place, Warners Bay
(36.49 Hectares)

Depicted in Picture 1

291 Hillsborough Road, Warners Bay NSW 2282
(2.69 Hectares)

Depicted in Picture 2

295 Hillsborough Road, Warners Bay NSW 2282
7,882sqm

Depicted in Picture 3

110 Bayview Street, Warners Bay NSW 2282
(4.43 Hectares)

Depicted in Picture 4

3/79 Clarence Road, Warners Bay NSW 2282
(1.66 Hectares)

Depicted in Picture 5

RC

Annexure A

The parties agree to enter into a contract in the substantially similar terms to the following form for each property identified in Schedule 1

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RC



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19 December 2014

Richard Green
The Awabakal Aboriginal Land Council
127 Maitland Road
ISLINGTON 2296
PO Box 101
ISLINGTON NSW 2296

Dear Richard,

MEMO OF PRELIMINARY ADVICE AND SCOPING REPORT

ADMINISTRATIVE LAW, ECONOMIC TORTS AND THE MINISTER OF ABORIGINAL AFFAIRS AND THE REGISTRAR OF THE ALRA 1983.

We are trying to come to grips with the various administrators involved in the land claims process and the causes of delays. The Awabakal claim in 2008, lodged as it was 17 years earlier is a sorry tale.

The delays you have instructed us are not only in determining a claim, but all the events that occur after the claim is made whether technically lawful or otherwise. Then there is the physical delay of processing a successful claim determination into a title deed for the LALC. We understand there is only one person in Crown Lands that undertakes this function. The well known case of *NSWALC v Minister Administering the Crown Lands Act*, 50 NSWLR 665, 674 [53]–[54] (Spigelman CJ) ('Maroota (CA)') is a shocking display of delay, taking 11 years from when the court ordered the transfer to occur "as soon as practical".

We understand that NSWALC identifies lack of funds to survey the land as a cause for the delay and we have seen that arise with the Southern LALCs that Richard and Owen have shown us. Courts have a policy against dictating how the executive is to apply its resources unless that resource allocation leads to the denial of the legal rights it has to enforce: see e.g. *Wei v Minister for Immigration, Local Government and Ethnic Affairs* (1991) 29 FCR 455.

By way of broad outline:

We discussed with the approach of using mandamus, an order from the Court to Compel actions of the Minister to made a decision (which may then be reviewed if necessary) and the conduct of other parties involved in the chain that ends with the transfer of title to the LALC.

As it sits, there is no real consequence for a Minister doing nothing. There does not seem to be much identified in the case law. This is anomalous because the Minister bears the onus of satisfying the evidentiary onus that the relevant land is not claimable as at the date of claim and any uncertainty arising from the difficulty of establishing the necessary tests with the passage of time should be resolved in

favour of the LALC: *Illawarra Local Aboriginal Land Council v Minister Administering the Crown Lands Act* (2008) 161 LGERA 319.

In the *illawarara* case, His Honour Basten JA said that “evidence of long inactivity with respect to a proposed use of the land may give rise to an interference that there was not, at the date of claim, any real prospect that the land might be used for that purpose.” (p. 91 para [83]).

Indeed, the Minister, long after the claim being made seems to be able to issue a certificate without legal obstacle according to Jagot J in *Jerrinya Local Aboriginal Land Council v Minister Administering the Crown Lands Act* (2007) 156 LGERA 65, see p. 105, para [124]-[125].

Subsequent ideas on how to use the land – often ignited by the land claim itself – has been used to refuse land claims: eg. *Dorrigo Plateau Local Aboriginal Land Council v Minister Administering the Crown Lands Act* (2007) 155 LGERA 307. Bob Carr’s election campaign and the new National Parks leading to the refusal of 50 land claims is a public example. Fortunately, in the case of *Mago Local Aboriginal Land Council v Eurobodalla Shire Council* (2002) 54 NSWLR 15, the NSW Court of Appeal upheld the LALC challenge to this attempt to retrospectively find a use after the claim has been made.

However, the use of the evidentiary certificates created by section 36(8) of the ARLA has been recognised by the court as way in which land right claims “would be seriously curtailed if not entirely emasculated”: *Darkinjung Local Aboriginal Land Council v Minister for Natural Resources* (1985) 58 LGRA 298 at 302, per Bignold J.

Attempts to use these certificates as late as just before the hearing of claim have been able to be set aside: see *Woromi Local Aboriginal Land Council v Minister Administering the Crown Lands Act* (1991) 72 LGRA 149; *Minister for Agriculture, Lands and Forests v NSWALC* (1987) 62 LGERA 27.

Another matter you raise is how early in the process can we reach to obtain an injunction on the Minister before adverse steps are taken. There is a view that every LALC has a inchoate right to the land where it would satisfy the section 36(1) ALRA Criteria: *Narrominee Local Aboriginal Land Council v Minister Administering the Crown Lands Act* (1993) 79 LGERA 430; *NSWALC v Minister Administering the Crown Lands Act* (1988) 14 NSWLR 685.

We can see an argument being run that it follows that Minister cannot lawfully deal with land that is subject of an undermined claim. There are Northern Territory cases that could be used to support such an argument: *R v Kearney; Ex Parte Japanangka* (1984) 158 CLR 395; *AG (NT) v Minister for Aboriginal Affairs* (1989) 25 FCR 345. We can see that argument refined to incorporate principles of contempt of Court and ultimately grounds for an injunction. However, we are far from being anywhere near having a reasonable case. Much depends on the state of evidence as to whether we can prove an attempt by the Crown Lands Department to subvert the protections of section 42B of the ALRA for example. Funding more novel litigation is expensive and we agree wholeheartedly with Richard’s desire to share these costs through an association of similarly minded LALCs.

So far, we have come to have some basic understanding of the rights you have against the Minister, Crown Lands Department etc, but less about the role of the Registrar of the ALRA 1983.

Your complaints about the Registrar however in the land transfer situation are not yet clear. We need more information. We do see from what you have said that the Registrar does interfere with your rights of self governance. That is a separate and parallel complaint that you have asked us to research.

By way of preliminary considerations, we do note that:

1. The purposes of the ARLA set out in section 3 of the ARLA identifies:
“(b) to provide for representative Aboriginal Land Councils”

And by sub-section (d) the purpose is to manage land, assets and investments "by" those LALCs

In *NSWALC v Alan Jones* (1998) 43 NSWLR 300, and *Darkinjung Pty Ltd v Darkinjung LALC* (2006) 203 FLR identify that the ALRA's purpose is to provide a system of self-governance for Aboriginal people.

There is little doubt that partisan politics by the Registrar in effectively giving greater voice to an unrepresentative minority or attempting to silence the "Dates" majority is *prima-facie* offending the very purpose of the ARLA. But we need to exclude other proper bona fide objectives within the ARLA that the Registrar will identify to justify his actions.

2. The then Minister for Aboriginal Affairs, Frank Walker on commenting on the Keane Report, which forms the underlying policy of the ALRA when it was introduced that because of the "severe economic deprivations", the lands rights reforms lay the basis for "*self sufficiency and economic well being*" and therefore "*land rights has a dual purpose – cultural and economic. Some lands, with traditional significance to Aborigines, will retain cultural and a spiritual significance. Other lands will be developed as commercial ventures designed to improve living standards*": NSW Parliamentary Debates, Legislative Assembly, 24 March 1983, p 5089. Accordingly, where economic development arising and relating to the land right is a purpose of the ARLA, then action of the Registrar could well also involve actionable economic torts such as unlawful interference with trade or business.

At this time, we have just made some preliminary notes, mostly for our own purposes, but may give you a flavour of what we are looking for in terms of evidence necessary (attached).

3. On the question of administrative law action against the Registrar, and the Minister, it is important to note that whilst in Australia courts do not defer to the specialist administrators:
 - (a) In *R v Ludeke; Ex parte Queensland Electricity Commission* (1985) 159 CLR 178 at 184, a reason given by the High Court for not disturbing a finding by the commission was that it was specially equipped by reasons of its knowledge and experience of industrial relations;
 - (b) The same approach has been taken in relation to professional conduct specialist tribunals: e.g. *Kalil v Bray* (1977) 1 NSWLR 256; and,
 - (c) In *Guiseppe v Registrar of Aboriginal Corporations* (2007) FCR 465, the Full Federal Court conceded that there could be a 'limited role for respect for, or deference to, an Administrative decision' of the Registrar.

Therefore, in compiling evidence for any case, you must do so in the expectation that there will be reluctance to accept the Registrar acted unreasonably. The evidential threshold will have to be strong.

Yours sincerely,



KNIGHTSBRIDGE NORTH LAWYERS

Per Despina Bakis

Attachment:

Unlawful interference with trade or business

The leading case in this area is probably till *Rooks v Barnard* [1964] AC 1129 by the House of Lords. The court confirmed that there exists an actionable tort, commonly known as intimidation, to coerce a person by unlawful threats into doing or abstaining from doing something that he would otherwise have every right to do, such as firing a particular employee or ceasing to do business with an old customer.

It is actionable at the instance of the employee or customer and probably every person threatened. The first case being known as the "three party" case the second as the "two party situation". Intimidation is but an instance of a wider emergent tort of unlawful interference with trade or business. Unlawful means can include common law crimes like battery or fraud and all torts.

Evocative terms like "coersion", "intimidation" or "threats" which, in common parlance carry an opprobrious connotation, are, for legal purposes, colourless and extreme pressure is treated no differently from a polite warning: see *Hodges v Webb* [1920] 2 Ch 70

The Commissioner's actions must have been targetted against you, although his predominant purpose might well have been to advance his own interests thereby, rather than to injure you: *Lonrho v Fayed* [1990] 2 QB 479; *Ansett Australia Ltd v Air Pilots Association* [1991] 1 VR 637.

The requirement of intent to injure was re-affirmed by the High Court in *Northern Territory v Mengel* (1995) 185 CLR 307. Government inspectors had placed movement restrictions on the plaintiff's herd, in the event, without authority, in the belief that the herd was diseased. The plaintiff sued for financial loss resulting from the delay in selling his steers but failed for want of proof that the officials had intended to injure the plaintiff. The court overruled an earlier decision of its own which had proceeded on the principle that "a person that suffers harm or loss as the inevitable consequence of the unlawful, intentional and positive acts of another is entitled to recover damages from the other": see *Beaudesert Shire Council v Smith* (1966) 120 CLR 145.

Deed of Rescission

Date: 12 October 2015



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Fax: +612 9012 0325

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THIS DEED OF RESCISSION dated 12 October 2015

PARTIES:

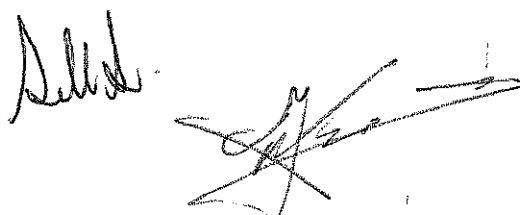
1. **THE AWABAKAL ABORIGINAL LAND COUNCIL of 127 Maitland Road
ISLINGTON NSW 2296 ("The Owner")**
2. **GOWS HEAT PTY LTD of Level 5, 44 Miller Street, North Sydney NSW 2060
("Gows")**

RECITALS

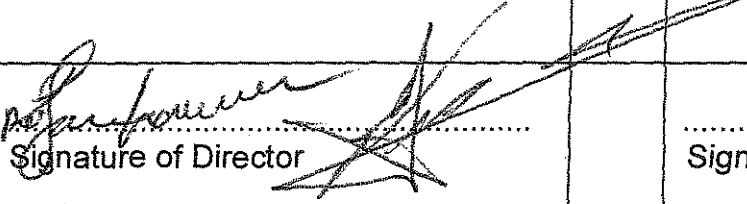
- A. The parties had entered into an agreement dated 15 November 2014.
- B. The parties agreed that Sunshine Property Group Pty Ltd ('Sunshine') would enter into a separate agreement with the Owner upon Sunshine and Gows entering into a Surrender Agreement and release.
- C. Sunshine and Gows have entered into a Surrender Agreement and release dated 2 October 2015 and by this Deed formally rescind their agreement of 15 November 2014 which will be relied upon by Sunshine in its agreement with the Owner.

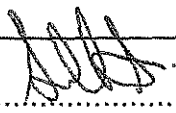
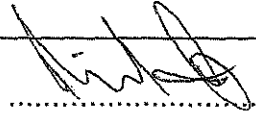
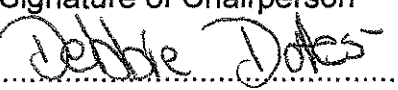
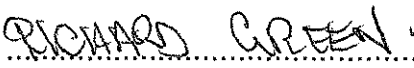
OPERATIVE PROVISIONS

1. The recitals are true and correct in every material particular.
2. The parties refer to and incorporate by reference the Surrender Agreement and Release dated 2 October 2012 between Gows and Sunshine executed by Gows.
3. The parties hereby rescind their Agreement dated 15 November 2014 effective on the receipt by Gows of \$1,600,00.00 from Sunshine in accordance with the Surrender Agreement and Release.

The block contains two handwritten signatures. The signature on the left is written in dark ink and appears to be 'D. L. L.'. The signature on the right is more complex, with multiple overlapping strokes, and is also in dark ink.

EXECUTION

EXECUTED for and on behalf of GOWS HEAT PTY LTD by in accordance with and by those with authority to so act		
 Signature of Director	 Signature of Director/Secretary
..... Name of Director	 Name of Director/Secretary

EXECUTED for and on behalf of the AWABAKAL ABORIGINAL LAND COUNCIL in accordance with and by those with authority to so act.		
 Signature of Chairperson		 Signature of Deputy Chairperson
 Name of Chairperson		 Name of Deputy Chairperson

Deed of Rescission

Date: 12 October 2015



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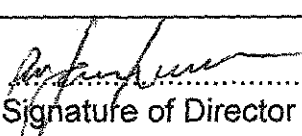
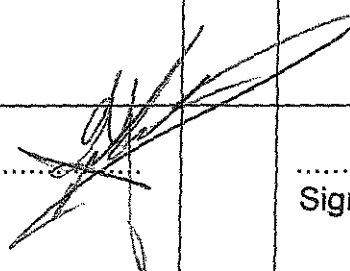
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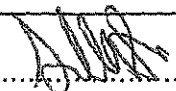

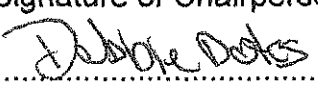
OPERATIVE PROVISIONS

1. The recitals are true and correct in every material particular.
2. The parties refer to and incorporate by reference the Surrender Agreement and Release dated 2 October 2012 between Gows and Sunshine executed by Gows.
3. The parties hereby rescind their Agreement dated 15 November 2014 effective on the receipt by Gows of \$680,000.00 from Sunshine in accordance with the Surrender Agreement and Release.

Two handwritten signatures are present at the bottom of the page. The signature on the left is written in dark ink and appears to be 'S. L. L.'. The signature on the right is more stylized, with a large 'X' shape, and is also in dark ink.

EXECUTION

EXECUTED for and on behalf of GOWS HEAT PTY LTD by in accordance with and by those with authority to so act		
 Signature of Director	 Signature of Director/Secretary	
..... Name of Director Name of Director/Secretary	

EXECUTED for and on behalf of the AWABAKAL ABORIGINAL LAND COUNCIL in accordance with and by those with authority to so act.		
 Signature of Chairperson	 Signature of Deputy Chairperson	
 Name of Chairperson Name of Deputy Chairperson	

Deed of Rescission

Date: 12 October 2015



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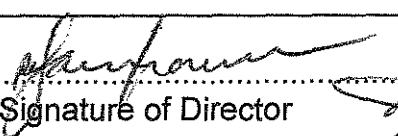
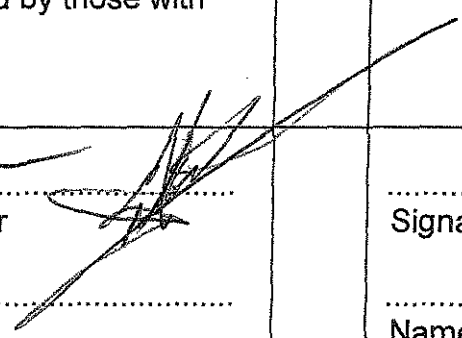
- A. The parties had entered into an agreement dated 15 November 2014.
- B. The parties agreed that Sunshine Property Group Pty Ltd ('Sunshine') would enter into a separate agreement with the Owner upon Sunshine and Gows entering into a Surrender Agreement and release.
- C. Sunshine and Gows have entered into a Surrender Agreement and release dated 2 October 2015 and by this Deed formally rescind their agreement of 15 November 2014 which will be relied upon by Sunshine in its agreement with the Owner.


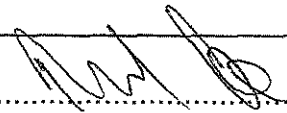
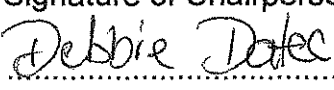
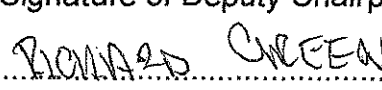
OPERATIVE PROVISIONS

1. The recitals are true and correct in every material particular.
2. The parties refer to and incorporate by reference the Surrender Agreement and Release dated 2 October 2012 between Gows and Sunshine executed by Gows.
3. The parties hereby rescind their Agreement dated 15 November 2014 effective on the receipt by Gows of \$680,000.00 from Sunshine in accordance with the Surrender Agreement and Release.

1, DP
Alld. 

EXECUTION

EXECUTED for and on behalf of GOWS HEAT PTY LTD by in accordance with and by those with authority to so act		
 Signature of Director	 Signature of Director/Secretary	
..... Name of Director Name of Director/Secretary	

EXECUTED for and on behalf of the AWABAKAL ABORIGINAL LAND COUNCIL in accordance with and by those with authority to so act.		
 Signature of Chairperson	 Signature of Deputy Chairperson	
 Name of Chairperson	 Name of Deputy Chairperson	



Knightsbridge North Lawyers

Level 15, 9 Castlereagh Street

Sydney, NSW 2000

PO Box 1537

North Sydney NSW 2059

Phone: +612 8011 1347

Fax: +612 9012 0325

admin@knightsbridgenorthlawyers.com

23 December 2015

The Chairperson/Acting/Deputy Chairperson(s)
The Awabakal Aboriginal Land Council
127 Maitland Road
ISLINGTON 2296
PO Box 101
ISLINGTON NSW 2296

Dear Richard and Debbie,

Re: Sunshine Property Investment Group Pty Ltd and its acquisition of Gows Heat Pty Ltd 's interests/replacement in the acquisition Awabakal Local Aboriginal Land Council land at Warners Bay

Further to our conference call yesterday concerning Sunshine's revisited acquisition/removal of Gows and acquisition of the Warners' Bay properties, I attach the running memorandum update for yesterday's events. Please sign it if you agree it is accurate or suggest any amendments that better reflect your recollection.

Remember, in this instance Richard is Awabakal, and Debbie is a mere witness.

I also send you for your ratification, acknowledgement, consent and/or disclosure arising from yesterday's meeting with Mr Zhong:

- The Deed of Acknowledgement and Guarantee executed 21 and 22 December 2015 signed by Richard Green and Tony Zhong;
- The completion instructions, Trust Account Disbursement Instructions dated 22 December 2015 directing that Knightsbridge pays the balance of the moneys to Gows Heat Pty Ltd signed by Tony Zhong;
- a memorandum regarding Investment Arrangements signed by Tony Zhong;

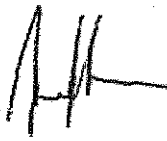
Gows Heat Pty Ltd is now out of the equation and accepted the balance paid to it by the 22 December 2015 payment direction as final settlement of any and all claims, interests etc.

At the same time, for completion, can you please also ratify, acknowledge and/or consent to:

- The completion instructions, Trust Account Disbursement Instructions dated 3 December 2015 directing that Knightsbridge pays the balance of the moneys to Gows Heat Pty Ltd;
- The Westpac payment confirmation of the monies paid under these directions.

Mr Zhong is apparently interested in having option agreements over other lands identified in Schedule 1 B. Consequently, whilst events have overtaken our discussions on the mandamus orders to speed up the land claims since our scoping letter to you dated 19 December 2014 (attached), can you please turn your minds to how you would like to progress this matter further.

Yours faithfully
KNIGHTSBRIDGE NORTH LAWYERS

A handwritten signature in black ink, appearing to be 'DB' followed by a horizontal line.

Despina Bakis
Solicitor

Encl.

Completion Instructions

DISPERSEMENT INSTRUCTIONS

North Lawyers

15


For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the potential development of the Awabakal lands pursuant to Deed executed 21 December 2015, attached hereto.

Further to the payment of \$400,000 instructed on 3 December 2015, you are instructed to apply the balance of the amount held in trust to the following bank co-ordinates:

Gows Heat Pty Ltd:

BSB: [REDACTED]

Account number: [REDACTED]


Tony Zhong
Sunshine Property Investment Group
Including Sunshine Warners Bay
Director

Ratified 22.12.15



Re-confirmed
11.1.16

Completion Instructions

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

Date: 22 December 2015

For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the potential development of the Awabakal lands pursuant to Deed executed 21 December 2015, attached hereto.

Further to the payment of \$400,000 instructed on 3 December 2015, you are instructed to apply the balance of the amount held in trust to the following bank coordinates:

Gows Heat Pty Ltd:

BSB: [REDACTED]

Account number: [REDACTED]



Tony Zhong
Sunshine Property Investment Group
Including Sunshine Warners Bay
Director

Ratified 22.12.15



Re-confirmed
11.1.16

Subject: Re: Awabakal Land arrangements [executed versions]

From: tony@sunshineinterior.com.au

Date: Thu, Oct 29, 2015 1:51 pm

To: "<admin@knightsbridgenorthlawyers.com>" <admin@knightsbridgenorthlawyers.com>

Thanks Despina,

I am still bit misunderstood the \$48000. Give us bit more time to work it out. Please wait us direction later.

Thanks!

Sent from my iPhone

On 29 Oct 2015, at 1:34 pm, <admin@knightsbridgenorthlawyers.com> <admin@knightsbridgenorthlawyers.com> wrote:

Tony,

Yes I have.

I trust that the matter of this \$48,000 business is resolved and that you direct that pay your share to Keeju?

Regards

Despina Bakis
Solicitor



----- Original Message -----

Subject: RE: Awabakal Land arrangements [executed versions]

From: tony@sunshineinterior.com.au

Date: Thu, October 29, 2015 12:29 pm

To: <admin@knightsbridgenorthlawyers.com>

Cc: "Sammy Say" [REDACTED], "Keith Rhee"

Hi Despina,

Please confirm you have received that 2 deposits: \$200,000 and \$512,000

Thanks!

Kind Regards,

Tony Zong

Director

Sunshine Commercial Interiors Pty Ltd

Unit 2, 46-48 Buffalo Road, Gladesvilles NSW 2111

M. [REDACTED] P. [REDACTED] E. tony@sunshineinterior.com.au

From: admin@knightsbridgenorthlawyers.com [mailto:admin@knightsbridgenorthlawyers.com]

Sent: Thursday, 29 October 2015 9:46 AM

To: tony@sunshineinterior.com.au

Cc: Keith Rhee; ferntreeinvest

Subject: RE: Awabakal Land arrangements [executed versions]

Dear Tony,

The so-called exchanged contracts last Friday, have nothing to do with \$48,000. These are separate and distinct.

I have yesterday e-mailed your offer of 30 June that was accepted. The \$50,000

was/is **not** yours to direct. Your 30 June document is quite clear.

Yours faithfully

Despina Bakis
Solicitor

<image001.png>

----- Original Message -----

Subject: Re: Awabakal Land arrangements [executed versions]
From: tony@sunshineinterior.com.au
Date: Thu, October 29, 2015 9:34 am
To: "<admin@knightsbridgenorthlawyers.com>"
<admin@knightsbridgenorthlawyers.com>
Cc: Keith Rhee [REDACTED], ferntreeinvest
[REDACTED]>

Despina,

I don't think I should cover other cost, I only need give you \$712,000 according to the exchanged contract. Please release that \$48000 to Keeju. Thanks!

Sent from my iPhone

On 28 Oct 2015, at 10:09 am, <admin@knightsbridgenorthlawyers.com>
<admin@knightsbridgenorthlawyers.com> wrote:

Tony,

See your revised letter of offer sent by you to me 7 Jul 2015 4:24 pm (copied Keith and Sam as your agents). I replied by executing the offer for Awabakal (subsequently ratified) by e-mail, Wed, Jul 08, 2015 10:54 am attaching the attached copy. See clause 5. The legal fees arising to Awabakal were incurred on this basis on relying on the funds on expiration of the due diligence and non-conclusion of sale by that time.

Yours Faithfully

Despina Bakis
Solicitor

<sigimg1>

----- Original Message -----

Subject: Re: Awabakal Land arrangements [executed versions]
From: tony@sunshineinterior.com.au
Date: Wed, October 28, 2015 7:43 am
To: "<admin@knightsbridgenorthlawyers.com>"
<admin@knightsbridgenorthlawyers.com>
Cc: Keith Rhee [REDACTED], ferntreeinvest
<[REDACTED]>

Morning Despina,

I can't understand your calculations, please give me more details and why I need share those cost. I have paid valuation by myself already.

Sent from my iPhone

On 28 Oct 2015, at 12:01 am,
<admin@knightsbridgenorthlawyers.com>
<admin@knightsbridgenorthlawyers.com> wrote:

Dear Tony,

I reply to your question regarding the \$48,000 you say is in trust.

As you will recall, the amended and final version of the offer from you which was accepted provided for a 90 day exclusivity period for the \$50,000.

That amount was **not refundable** and was to be applied equally towards the costs of valuation, Awabakal's estate agents and vendors solicitor's fees.

As a result, your share of this towards the costs of valuation was \$16,667. You applied \$2000 of this in sponsorship, leaving you \$14,667. It is this amount that I will return to you.

Yours Faithfully,

Despina Bakis
Solicitor

<sigimg1.png>

----- Original Message -----

Subject: RE: Awabakal Land
arrangements [executed versions]
From: tony@sunshineinterior.com.au
Date: Mon, October 26, 2015 3:46 pm
To:
<admin@knightsbridgenorthlawyers.com>
Cc: "Keith Rhee"
<[REDACTED]>,
"ferntreeinvest"
[REDACTED], "Mark
Driscoll"
[REDACTED]

Hi Despina,

We have exchanged the contract on 23rd Oct 2015 and gave a \$200,000 bank cheque to Nick. Have you received this? Could you please confirm this?

We will deposit \$512,000 in your account soon. Please confirm once you receive it.

We also have \$48,000 in your account before. There will be \$760,000 in total in your account from us after you receive them.

Any queries, please contact me on following.
Thanks!

Kind Regards,
Tony Zong

Unit 2, 46-48 Buffalo Road, Gladesvilles NSW
2111

M. 0416 028 898 P. 02 9807 5215 E.

tony@sunshineinterior.com.au

From: admin@knightsbridgenorthlawyers.com
[mailto:admin@knightsbridgenorthlawyers.com]

Sent: Wednesday, 21 October 2015 4:45 PM

To: tony@sunshineinterior.com.au

Cc: Keith Rhee; Samuel Say

Subject: Awabakal Land arrangements [executed versions]

Dear Tony,

Attached are the executed (signed) version of the Agreements that were made following the instructions to change them to call options etc and add the Deed of Rescission etc.

These replaced the earlier executed (signed) Heads of Agreement.

Accordingly, the attached agreements are the ones that will be accepted.

We understand that you have make calculation adjustments etc, so if you want to make these and minor handwritten changes, please do so. If you return a signed copy with the handwritten changes, then that will be sufficient.

We can add and even re-type another agreement if you think that helps you with your investors.

We are told that you will be making a payment in good faith in part fulfillment today. Our Trust account details are:

Knightsbridge North Lawyers Trust

Account:

BSB: [REDACTED]

Account: [REDACTED]

Please send a receipt of the payment so that we can enliven our clients. We will be waiting for your further instructions as to how the payments are to be made with respect to the parties.

Yours Faithfully,

Despina Bakis
Solicitor

<image001.png>

<executed awabakal agreement 8.7.15.pdf>

8

9

Date

21 December 2015

SUNSHINE WARNERS BAY PTY LTD
A.C.N. 608 797 039

AND

AWABAKAL LOCAL ABORIGINAL LAND COUNCIL

**DEED OF ACKNOWLEDGMENT
AND GUARANTEE**



Knightsbridge North Lawyers
Level 15, 9 Castlereagh Street
Sydney NSW 2000
PO Box 1537
North Sydney NSW 2059
Email: admin@knightsbridgelawyers.com
Ref: DB:2015013

THIS DEED dated 2^{1st} day of December 2015

BETWEEN

1. **THE AWABAKAL ABORIGINAL LAND COUNCIL of 127 Maitland Road ISLINGTON NSW 2296 ("The Owner")**
2. **SUNSHINE WARNERS BAY PTY LTD ACN 608 797 039 of Suite E – Level 331, 2 Park Street NSW 2000 ("The Purchaser")**

RECITALS

- A. On 23 October 2015 the parties entered into an agreement for the option to purchase from the Owner, certain properties, and which involved the payment by the Purchaser a sum of \$ 1,212,000 to parties involved with, necessary to and upon the reliance upon the contract with the Owner.
- B. In addition, the Purchaser sought call options for a further properties adjacent and proximate to the properties agreed to in the 23 October 2015 agreement.
- C. On about 25 November 2015, the Purchaser became aware of the press announcement that the Minister appointed and investigator into the affairs of the Owner including the suspension of the Chairperson, Ms Debbie Dates who as party to the agreements referred to in recital A ("the controversy").
- D. The Purchaser has expended funds in marketing, property consultants in reliance upon the validity and bona fides of the agreements and has raised concern about its position by virtue of enforceable agreements it has made with third parties.
- E. The Owner assures the Purchaser that there is no reason arising from the controversy, which would comprise the validity of the arrangements or which would expose the Purchaser to additional risk of financial loss in acting on reliance thereon.
- F. The Owner assures the Purchaser that the project undertaken by the Purchaser is of significant to the indigenous community which the Owner represents and seeks to guarantee separately and independently the Owner in regards any loss that would be suffered by reason of the circumstances surrounding Recital C.
- G. The parties enter into this Deed to provide the necessary reassurance to the Purchaser to continue with the costs involved in the project.

OPERATIVE PART

1. This recitals are true and correct in every material particular.
2. The Owner guarantees the Purchaser for any loss or damage suffered by the Purchaser by continuing to proceed with the re-zoning, development process

and the project generally. Such loss is not limited to any payments made by the Purchaser to Gows and Keeju, of \$926,667.00 and \$250,000.

3. The Purchaser relies upon this guarantee to continue with the project and incur thereby further costs and refrains from taking any legal action including all claims, actions, suits, demands, costs, damages and expenses which it may have had but for the execution of this deed by reason of or arising from the controversy.
4. The parties agree that separate call option agreements will be entered into for each of the properties identified in schedule 1.

Execution page

EXECUTED AS A DEED

EXECUTED BY
THE AWABAKAL LOCAL
ABORIGINAL LAND COUNCIL

)
)
)



Signature of authorised officer

by its authorised officer in the presence
of:



Signature of witness



Print name of witness

Authorised officer's name:

RICHARD GREEN

Authority of officer:

ACTING CHAIRPERSON
DEPUTY CHAIRPERSON

EXECUTED BY
SUNSHINE WARNERS BAY PTY LTD
in the presence of:

)
)



Signature

Signature of witness

Print name of witness

SCHEDULE 1

Item 1: The properties

A. Properties covered by the 23rd October Agreement

14 Vermont Place, Warners Bay
(36.49 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Lake Macquarie as follows:

- Lot 100 in Deposited Plan 1180001
- Lot 2071 in Deposited Plan 1072365
- Lot 100 in Deposited Plan 1176697
- Lot 1820 in Deposited Plan 42616

291 Hillsborough Road, Warners Bay NSW 2282
(2.69 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Lake Macquarie as follows:

- Lot 1 in Deposited Plan 823734

295 Hillsborough Road, Warners Bay NSW 2282
7,882sqm

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Lake Macquarie as follows:

- Lot 2 in Deposited Plan 823734

110 Bayview Street, Warners Bay NSW 2282
(4.43 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Newcastle as follows:

- Lot 1650 in Deposited Plan 755233

Lot 3/79 Clarence Road, Waratah West NSW 2298
(1.66 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Newcastle as follows:

- Lot 502 in Deposited Plan 755247
- Lot 503 in Deposited Plan 755247
- Lot 504 in Deposited Plan 755247

Schedule 1

B FURTHER PROPERTIES TO WHICH A CALL OPTION IS GRANTED

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Newcastle as follows:

1. Lot 7393, DP 1164604 being 70.45 hectares
2. Lot 101, DP 1181729 being 7.521 hectares
3. Lot 100, DP 1181729 being 5.983 hectares
4. Lot 101 DP 1180001 being 9.321 hectares
5. Lot 2061, DP 8237331 being 6.169 hectares
6. Lot 326, DP 755233, being 10.39 hectares
7. Lot 102, DP 1180001, being 2.63 hectares.

ing ~~st~~

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

Please retain, in payment of your legal fees, an amount of \$10,000.00 in respect of funds in account of our agency fees.

Account Statement extract:

Keeju's share as agent of Sunshine: \$16,666.66

Pay Sam Sayed to Ferntree account: \$ 6,666.00

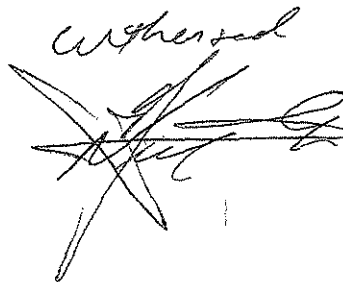
Apply balance to KNL



Keith Rhee



Sammy Say



Date: 26 October 2015

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

Please retain, in payment of your legal fees, an amount of \$10,000.00 in respect of funds in account of our agency fees.

Account Statement extract:

Keeju's share as agent of Sunshine: \$16,666.66

Pay Sam Sayed to Ferntree account: \$ 6,666.00

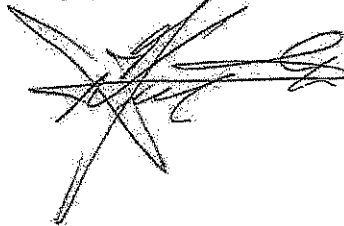
Apply balance to KNL



Keith Rhee

Sammy Say

Date: 26 October 2015

Witnessed


*Acknowledged & Consented :
29.10.15
Subst.*

SUNSHINE PROPERTY INVESTMENT GROUP PTY LTD

Offer Schedule & Exclusive Due Diligence Agreement

Item

1. Property address of land being acquired:

1. 110 Bayview Street, Warners Bay, NSW, 2282 (land area 4.43ha);
2. 14 Vermont Place, Warners Bay, NSW, 2282 (land area 36.49ha);
3. 295 Hillsborough Road, Warners Bay, NSW, 2282 (land area 7,882 m2);
4. 291 Hillsborough Road, Warners Bay, NSW, 2282 (land area 2.69ha); and
5. 3/79 Clarence Rd, "Braye Park", Waratah, NSW (1.66ha).

2. Purchase Price:

12. *+ the transfer of 5 completed houses*
Total purchase price ~~\$10.60 million~~. In addition to the purchase price, Sunshine will transfer 5 completed houses to the Awabakal Aboriginal Land Council when the land is ultimately developed. The five houses (including land) will have a maximum cumulative value of \$2.0 million. *minimum*

3. Purchase Contract (Call Option):

The purchase Contract (via Call Options) to be agreed between the parties.

4. Deposit:

payable on acceptance of this offer
10% of Purchase Price or \$1,060,000 less the \$48,000 already paid at the commencement of Due Diligence. Balance of deposit therefore \$1,012,000.

~~Deposit is not to be released unless agreed and must be held in the Vender's solicitors trust account.~~ *upon the execution of the Heads of Agreement*

5. Settlement:

on or about 8 October 2015.
Settlement to occur 90 days after the land is satisfactorily rezoned and the rezoning is finalised with gazettal. In the event the land is not satisfactorily rezoned within 36 months from execution of Call Options, Sunshine reserves the right to terminate the transaction with the 10% deposit to be refunded to Sunshine.

7. GST:

Purchaser to review the treatment of GST on acquisition. Margin Scheme to be applied to the Sales Contract.

\$1m will be payable to Gows Heat Pty Ltd for the relinquishment of their rights on or about 8 October 2015.

SUNSHINE PROPERTY INVESTMENT GROUP PTY LTD

Offer Schedule & Exclusive Due Diligence Agreement

Item

1. Property address of land being acquired:

1. 110 Bayview Street, Warners Bay, NSW, 2282 (land area 4.43ha);
2. 14 Vermont Place, Warners Bay, NSW, 2282 (land area 36.49ha);
3. 295 Hillsborough Road, Warners Bay, NSW, 2282 (land area 7,882 m2);
4. 291 Hillsborough Road, Warners Bay, NSW, 2282 (land area 2.69ha); and
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2. Purchase Price:

12. *+ the transfer of 5 completed houses.*
Total purchase price ~~\$10.60 million~~. ~~In addition to the purchase price,~~ Sunshine will transfer 5 completed houses to the Awabakal Aboriginal Land Council when the land is ultimately developed. The five houses (including land) will have a ~~maximum~~ *minimum* cumulative value of \$2.0 million.

3. Purchase Contract (Call Option):

The purchase Contract (via Call Options) to be agreed between the parties.

4. Deposit:

payable on acceptance of this offer
10% of Purchase Price or \$1,060,000 less the \$48,000 already paid at the commencement of Due Diligence. Balance of deposit therefore \$1,012,000.

~~Deposit is not to be released unless agreed and must be held in the Vender's solicitors trust account.~~ *upon the execution of the Heads of Agreement*

5. Settlement:

on or about 8 October 2015.
Settlement to occur 90 days after the land is satisfactorily rezoned and the rezoning is finalised with gazettal. In the event the land is not satisfactorily rezoned within 36 months from execution of Call Options, Sunshine reserves the right to terminate the transaction with the 10% deposit to be refunded to Sunshine.

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Purchaser to review the treatment of GST on acquisition. Margin Scheme to be applied to the Sales Contract.

\$1m will be payable to Grows Heat Pty Ltd for the relinquishment of their rights on or about 8 October 2015.

SUNSHINE PROPERTY INVESTMENT GROUP PTY LTD

Offer Schedule & Exclusive Due Diligence Agreement

Item

1. Property address of land being acquired (Lot/DP to be confirmed):

1. 110 Bayview Street, Warners Bay, NSW, 2282 (land area 4.43ha);
2. 14 Vermont Place, Warners Bay, NSW, 2282 (land area 36.49ha);
3. 295 Hillsborough Road, Warners Bay, NSW, 2282 (land area 7,882 m2);
4. 291 Hillsborough Road, Warners Bay, NSW, 2282 (land area 2.69ha); and
5. 3/79 Clarence Rd, "Braye Park", Waratah, NSW (1.66ha).

2. Offer Price:

The Purchaser will engage a Registered Property Valuer to prepare a Market Valuation of the land outlined in **Item 1** above. The Market Valuation will form the Purchase Price, in addition and subject to the satisfactory completion of Exclusive Due Diligence. The Purchaser will make available to the Vendor a copy of the Valuation.

3. Exclusive Due Diligence:

The Vendor agrees to grant Sunshine Property Investment Group Pty Ltd ("Sunshine") (purchasing entities or special purpose vehicles to be confirmed by the conclusion of the exclusive due diligence period) exclusive rights to conduct exclusive due diligence for a period of **90 days** from the date of executing this due diligence Agreement.

A 90 day Exclusive Due Diligence period is required so the Purchaser can procure a Market Valuation, seek town planning advice with respect to rezoning, prepare preliminary draft subdivision plans and hold discussions with relevant Planning Authorities to understand the rezoning and development potential of the various properties.

During this exclusive period, the Vendor agrees not to enter into negotiations with any third party whatsoever, nor market the property either on or off market.

The Vendor agrees to grant Sunshine and or its nominees / consultants access to the properties for the purpose of conducting due diligence.

4. Purchase Contract (via Put & Call Option):

The purchase Contract (including Put & Call Option) to be negotiated throughout the exclusive due diligence Period and executed upon the completion of satisfactory due diligence.

5. Deposit:

\$50,000 payable to vendors solicitors Trust Account upon the commencement of exclusive due diligence. The \$50,000 will not be refundable should Sunshine elect not to proceed with the acquisition following exclusive due diligence, but will be applied equally towards the costs of valuation, vendors estate agents and vendors solicitors fee.

6. Settlement:

2 years from the date of Exchange of Contracts. The Purchaser reserves the right to delay settlement for a further period of 12 months provided:

- a) After 24 months from exchange of Contracts, the properties remain unzoned and or without DA approval; and
- b) it releases to the Vendor 1% of the total purchase price to defer settlement for 12 months.

7. GST:

Purchaser to review the treatment of GST on acquisition. Margin Scheme to be applied to the Sales Contract.

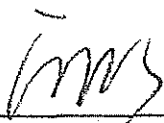
Exclusive Due Diligence Agreement executed this

July
A day of ~~June~~ 2015.

Signed for and on behalf of:

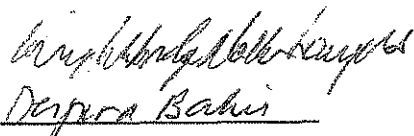
Sunshine Property Investment Group Pty Ltd

ABN 53 167 983 128



Director
Tony Zong

Signed for and on behalf of the Vendor


Daniela Bahis

Name
Position

Soluto
for Auctioneers

Name
Position

[Back](#)

Payment

Payment summary

Payment method	Pay Anyone
Payment status	Sent
Payment ID	c07375ae-b188-4a6a-821c-704315e2039c

Notifications

You can subscribe to your notifications about:

Failed payments

Insufficient funds

[Notification settings](#)

Payer

From account	Statutory Trust Account - Solicitors [REDACTED]
Description	Awabakal Sunshine
Payer name	KNIGHTSBRIDGE NO

Payee

Payee nickname	Gows Heat Pty Ltd
Account name	Gows Heat Pty Ltd
BSB	182-512 (MACQUARIE BANK LIMITED)
Account number	[REDACTED]
Description	Awabakal Sunshine

Payment details

Amount	\$327,268.00
Scheduled payment date	22 Dec 2015

Other details

Method	Online Banking
Withdrawal receipt number	[REDACTED]
Submitted by	Despina Bakis (11:17am, 22 Dec 2015)
Approved by	Despina Bakis (11:17am, 22 Dec 2015)

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ABN 33 007 457 141 & AFSL & Australian credit license 233714

Westpac
BURWOOD NSW

Westpac Banking Corporation

27/11/15

PAY SUNSHINE PROPERTY INVESTMENT GROUP PTY LTD

The sum of FIVE HUNDRED AND TWELVE THOUSAND

DOLLARS ONLY

KNIGHTSBRIDGE NORTH LAWYERS PTY LTD
TRUST ACCOUNT

\$ 512,000.00

157131:2503E01E0100E11

SECURITY FEATURE: THIS CHEQUE CONTAINS AN OPTICALLY SENSITIVE MICROPATTERNED SECURITY LINE. IN THE ABSENCE OF MICROPATTERN, THE MICROPATTERNED SECURITY LINE WILL BE VISIBLE.

SURRENDER AGREEMENT AND RELEASE

This Surrender Agreement and Release ("Agreement") is made by and between The Awabakal Aboriginal Land Council ("Awabakal"), **Gows Heat Pty Ltd** ABN ## ###
("Gows") and ~~Sunshine Property Investment Group~~ ABN 53 167 983 128
("Company") (collectively referred to as the "Parties" or individually referred to as a
"Party").
AWABAKAL PTY LTD.

RECITALS

WHEREAS, Gows has rights to acquire property at valuation from Awabakal Land Council ('Awabakal') arising, inter alia, from a Head of Agreement dated 15 December 2014 ("Gows Agreement");

WHEREAS, Gows has consented to the Company making an evaluation of the land, the subject of the Gows Agreement being the land described in Annexure A to this deed ("Subject Lands");

WHEREAS, the Company wishes to acquire the Subject Land and formalise its offer to Awabakal and enter into an option agreement with Awabakal ("Option Agreement") and pay Gows a surrender payment to surrender its rights under the Gows Agreement;

WHEREAS, the Parties wish to resolve any and all existing and future disputes, claims, complaints, grievances, charges, actions, petitions, and demands that Gows may have against the Company, the Subject Lands or Awabakal and them, including but not limited to, in respect of any and all claims arising out of or in any way related to the Gows Agreement and the Subject Lands.

OPERATIVE PROVISIONS

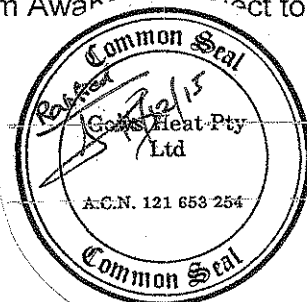
NOW, THEREFORE, in consideration of the mutual promises made herein, the Company and Gows hereby agree as follows:

1. Consideration.

- a. Payment. The Company agrees to pay Gows a sum of \$1,600,000.00 (One Million Eight Hundred Thousand Dollars) (inclusive of GST, if any) to surrender, release, disavow any and all claims arising out of or in any way related to the Gows Agreement or the Subject Lands against the Company or Awabakal, as follows:

1,600,000
250,000
(i) \$250,000.00 (two hundred and fifty thousand dollars) (inclusive of GST, if any) on the date of the Option Agreement and released immediately to Gows;

- (ii) \$1,350,000.00 (one million three hundred and fifty thousand dollars) (inclusive of GST, if any) to be paid into Knightsbridge North Lawyers trust account and released to Gows within 14 days of settlement of the Company's acquisition of the Subject Lands from Awabakal subject to 1.d.



- b. This agreement serves as an irrevocable instruction to Knightsbridge North Lawyers to release the funds for payment in accordance with the terms of this deed.
- c. Any and all rights that Gows has under the Gows Agreement or any agreement entered into pursuant to the Gows Agreement or otherwise has in respect of the Subject Lands will, upon the release of funds identified in clause 1a.(i) of this deed, terminate and Gows will have no further rights or entitlements with respect thereto.
- d. Gows acknowledges and agrees that under the Option Agreement the Company will be entitled to exercise an option to purchase one, some or all of the Subject Lands and that payment of the amount in clause 1a.(ii) is proportioned in respect of the Subject Lands in accordance with the following table and only the proportional amount shown in the table will be payable by the Company within 14 days of settlement of the Company's acquisition of that property which is part of the Subject Lands from Awabakal.

Address	Individual Purchase Price as a % of Total	Balance Payment Schedule
110 Bayview Street, Warners Bay	20%	\$267,857
14 Vermont Place, Warners Bay	63%	\$857,143
Clarence St, Waratah West (Newcastle)	8%	\$107,143
291 Hillsborough Rd, Warners Bay	5%	\$64,286
295 Hillsborough Rd, Warners Bay	4%	\$53,571
Total	100%	\$1,350,000

- e. For the avoidance of doubt, Gows agrees that if the Company does not exercise its option under the Option Agreement in respect of a property or otherwise does not acquire a property which is part of the Subject Lands, that proportional amount of the fee to be paid to Gows as set out in the table 1d. is to be repaid to the Company

Gows agrees that the payments to be made by the Company under this clause 1 are full and final payment and Gows will not be entitled to additional consideration nor the Company have any further liability to Gows in the event the Company purchases land other than the Subject Lands from Awabakal.

2. Release of Claims. Gows agrees that the foregoing consideration represents settlement in full of all outstanding obligations owed to Gows by the Company and Awabakal. Gows hereby and forever releases the

Company and Awabakal ('Releasee') from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, demand, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Gows possesses or may possess against the Releasees in respect of the Gows Agreement or the Subject Lands, including, without limitation:

- a. any and all claims relating to or arising any agency or fiduciary relationship with the Releasees and the termination of that relationship;
- b. any and all claims relating to, or arising from, Gow's right to purchase, or actual purchase of the Subject Lands, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable corporate law;
- c. any and all claims for breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence;
- d. any and all claims for attorneys' fees and costs.

Gows agrees that the release set forth in this section will be and remain in effect in all respects as a complete general release as to the matters released and that this deed may be pleaded in bar to such claims, proceedings, verdicts or judgements or order. This release does not extend to any obligations incurred under this Agreement. This release does not release claims that cannot be released as a matter of law.

Security for payment. The Company charges its assets for the payment of the fee.

3. Confidentiality. Gows agrees to maintain in complete confidence the existence of this Agreement, the contents and terms of this Agreement, and the consideration for this Agreement (hereinafter collectively referred to as "Surrender Information"). Except as required by law, Gows may disclose Surrender Information only to Gows lawyer, accountant or other professional to the extent that they need to know the Surrender Information in order to provide advice on tax treatment or to prepare tax returns, and must prevent disclosure of any Surrender Information to all other third parties. Gows agrees that it will not publicize, directly or indirectly, any Surrender Information.
4. Nondisparagement. Gows agrees to refrain from any disparagement, defamation, libel, or slander of any of the Releasees, and agrees to refrain from any tortious interference with the contracts and relationships of any of the Releasees.
5. Indemnification. Gows agrees to indemnify and hold harmless the Company from and against any and all loss, costs, damages, or expenses, including,

without limitation, lawyers' fees or expenses incurred by the Company arising out of the breach of this Deed by Gows, or from any false representation made herein by Gows, or from any action or proceeding that may be commenced, prosecuted, or threatened Gows, direct or indirect, contrary to the provisions of this Deed. Gows further agrees that in any such action or proceeding, this Deed may be pled by the Company as a complete defence, or may be asserted by way of counterclaim or cross-claim.

6. Entire agreement. This agreement represents the entire agreement and understanding between the Company and Gows concerning the subject matter of this agreement and the parties' dealings with the subject land and Awabakal Land Council and its agents and this Surrender and the events leading thereto and associated therewith, and supersedes and replaces any and all prior agreements and understandings concerning the above-referenced.
7. Counterparts. This agreement may be executed in counterparts and by facsimile, and each counterpart and facsimile will have the same force and effect as an original and will constitute an effective, binding agreement on the part of each of the undersigned.

Execution

Executed as a deed.

PER NEXT PAGE

4

WAAANLRS 2014 PTY LTD. *li*
By **SUNSHINE PROPERTY
INVESTMENT GROUP PTY LTD**
ABN 53 167 983 128

under section 127 of the Corporations Act
by a director and secretary/director

Shixin

Signature of director

Shixin 2016

Name of director (please print)

Witnessed by:

Debbie

Signature of secretary/director

Debbie Dates

Name of secretary/director (please print)

By **GOWS HEAT Pty Ltd** ABN ## ###
("Gows")

under section 127 of the Corporations Act
by a director and secretary/director

[Signature]

Signature of director

Name of director (please print)

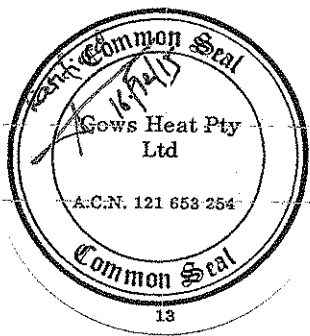
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Debbie

Signature of secretary/director

Debbie Dates

Name of secretary/director (please print)



ANNEXURE A

Subject Lands

14 Vermont Place, Warners Bay

- Lot 100 in Deposited Plan 1180001
- Lot 2071 in Deposited Plan 1072365
- Lot 100 in Deposited Plan 1176697
- Lot 1820 in Deposited Plan 42616

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- Lot 1 in Deposited Plan 823734

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- Lot 1650 in Deposited Plan 755233

Lot 3/79 Clarence Road, Waratah West NSW 2298

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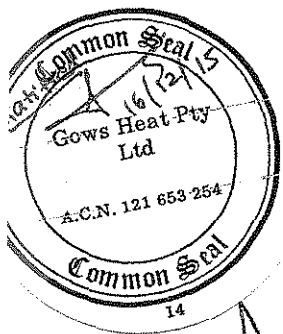
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- a. any and all claims relating to or arising any agency or fiduciary relationship with the Releasees and the termination of that relationship;
- b. any and all claims relating to, or arising from, Gow's right to purchase, or actual purchase of the Subject Lands, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable corporate law;
- c. any and all claims for breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence;
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Gows agrees that the release set forth in this section will be and remain in effect in all respects as a complete general release as to the matters released and that this deed may be pleaded in bar to such claims, proceedings, verdicts or judgements or order. This release does not extend to any obligations incurred under this Agreement. This release does not release claims that cannot be released as a matter of law.

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Execution

Executed as a deed.

PER NEXT
PAGE

By **SUNSHINE PROPERTY
INVESTMENT GROUP PTY LTD**
ABN 53 167 983 128

under section 127 of the Corporations Act
by a director and secretary/director

[Handwritten signature]

Signature of director

Shuxin Zong

Name of director (please print)

Witnessed by: -

[Handwritten signature]

Signature of secretary/director

Debbie Dates

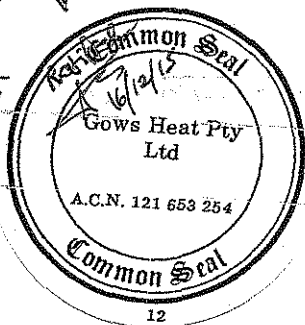
Name of secretary/director (please print)

By **GOWS HEAT Pty Ltd** ABN ### ###
("Gows")

under section 127 of the Corporations Act
by a director and secretary/director

[Handwritten signature]
Signature of director

Name



Witnessed by: -

[Handwritten signature]

Signature of secretary/director

Debbie Dates

Name of secretary/director (please print)

[Handwritten mark]

ANNEXURE A

Subject Lands

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Memo regarding Investment arrangements

Date : December 2015

By this memorandum of agreement, the parties record that:

United Land Councils, Gows Heat, and Sunshine have agreed to co-operate to establish:

- (1) a portfolio of investment property opportunities in relation to Indigenous lands; and,
- (2) Businesses that are particularly apt for indigenous businesses related to
- (3) a platform for the promotion for investors to participate in (1) and (2) above.

Terms:

The parties agree that United Land Councils Ltd has commercial and property opportunities that they wish to share with, and make available to investors and form a network of investors to achieve all parties' goals and achieve mutual commercial benefits.

United land Councils Ltd will provide leadership for sourcing and preparing investment opportunities related to indigenous lands use the association to drive the association as the vehicle to advance the interests of progressively-minded indigenous organisations in Australia and internationally.

Gows and Sunshine will have the right to lead and have first right to develop each opportunity that they identify as potential investment priority.

Gows will principally invest in companies participating the development of indigenous property and businesses;

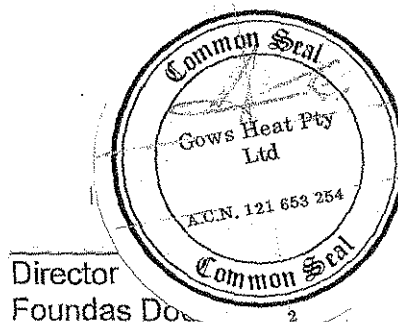
Sunshine is given the right of first refusal regarding:

- (1) the utilisation of the opportunities regarding to Wollongong and surrounds;
- (2) the utilisation of the opportunities in Gunnedah and the surrounds with particular regard to the development of accommodation and property development suitable and conducive to the mining industry where Tony Zhong has a personal relationship with the CEO of Shenwah who can co-operatively designed targeted opportunities.

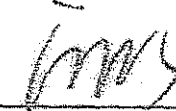
The parties agree that the they will formalise their relationship between the as a consortium as soon as practical having regard to the progress of the opportunities so far identified.

Executed by:


Director
Richard Green



Director
Foundas Doe


Director
Tony Zong



MEMORANDUM OF DECLARATION, ACKNOWLEDGMENT AND CONSENT

5 May 2015

The parties agree that a record is made of the events for the purposes of proper corporate governance available to the relevant parties should any party require to a record of the declarations made, advice and instructions given and the acknowledgements and consents given (express or implied) as a result of the events arising.

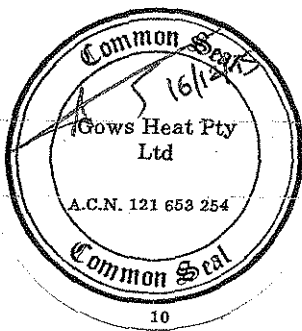
It is recorded:

1. Gows Heat Pty Ltd and ALALC entered into an agreement to purchase the land further to unanimous Board resolution, on 14 December 2014.
2. Since that agreement:
 - (a) ALALC board fractured and was not meeting.
 - (b) Delay has caused Gows investors to look elsewhere/miss other opportunities.
 - (c) Richard introduced Gows to other opportunities in indigenous land and business development in his Gomeroi native title applicant capacity
 - (d) Richard and Nick Peterson set up United Land Councils Ltd and Gows will be a seeding partner to its consortium of investors and setting up various trusts etc –
 - (e) KNL to set up investment companies, trusts etc for ULC/Gows and investors.
 - (f) ALALC is treated as member of ULC and to be founding formal shareholder in approved structure.
3. ALALC and Gows agree that Gows can sell out its deal with ALALC to third party.
4. Gows wants \$1m. Anything about that, ALALC gets \$50% for 'funeral fund' and/or 'culture fund' or an appropriately structured vehicle that the ALRA permits. Nick says that he can easily structure the company limited by guarantee vehicle to achieve a desirable outcome.
5. ALALC agrees that KNL can act for both Gows and ALALC and to manage the potential for conflict:
 - (a) Transparency in deal with Richard attending as much as possible;
 - (b) Regular updates (on any significant event) and recorded as addendum to this memo;
 - (c) Gows representatives are its directors and Cyril Gabby, Nick Peterson, Garry Lloyd and Andrew Margi, coming together as part of the ULC consortium;
 - (d) ALALC does not pay for legal on this issue and ECVLP, structural work on property matters until Gows is out;
 - (e) Where any party has any doubt, get 2nd legal opinion from another law firm, get ethical advice NSW Law Society and/or KNL steps aside for one or both.
6. Richard's association with Gomeroi well known in community, no real potential conflict that is not disclosed.
7. Richard's new status with ULC – disclosed and accepted by Debbie as having no real potential conflict. Seen as positive. There is no board meetings for now (which ALALC says should be resolved quickly), so Debbie is ALALC per Rule 19.

8. As it is intended that Gows sells out its interest in ALALC deal would avoid potential problems arising. Agreed to present to Board when meets and if there is a problem, Richard will resign from ALALC. Should not be potential problem if disclosing what is going on through these records.

Confirmed as a true record:

Handwritten signatures and initials, including a large signature on the left and several smaller ones on the right.



RUNNING MEMORANDUM OF DECLARATION, ACKNOWLEDGMENT AND CONSENT ADDENDUM

2 October 2015

It is recorded that:

1. Raheem Kahn and Dr Virk negotiations commenced. Negotiating with property group in Melbourne to do JV and do site visit.
2. OYA equities unclear after Garry Lloyd left.
3. Sunshine Group has been introduced by Sam Sayed, Burwood Partners and his partner, Keith Rhee. Keith Rhee is friends with Tony Zhong, director.
4. Keith knows Nick P from the Tax Office, we suggest that NP becomes central contact point on this. Agreed to "Second" Nick Peterson to KNL and use Knightsbridge e-mail and not personal e-mail- keep record of communication under one "umbrella" ;
5. The original understanding was that a new purchaser would take a simple sale per the Heads of Agreement. That would keep the "replacement" within the Board resolution and allow the matter to proceed straight to community meeting level.
6. Richard has told them that he believes there are new amendments coming into to the ALRA to make it easier – that can be done by CEO delegated from NSWALC Board. (However cant find reference to this delegation.)
7. Sunshine have provided a presentation for the community meeting.
8. Due Diligence Exclusivity period entered into. KNL signed version 2 and was ratified by RG.

Negotiated with Keith Rhee and Tony Zhong that:

- We give up current negotiations;
 - We impose a deadline of 90 days for there to be at least a signed heads of agreement if they go ahead.
 - Deadline for them to do all they need to all regulatory and planning work etc.
 - If no HOA by deadline, 2/3 of \$50K fee goes to cover fix allocation towards legal and agency costs (estate agents, planners etc) on our side answering any questions you ask during the period. That will cover Tony Galli or anyone else ALALC may need. We are happy that Sam and Keith do that part from your side.
9. Due Diligence exclusivity offer as revised re-submitted by Zhong and accepted on 8 July, and period expires 8 October. Will agree not proceed further with other options.
 10. Potential Offer from Sunshine(?):

24 September 2015

Offer is different from what agreed. Want to do call options, not a sale.

Sushine Offered:

- Offer is \$10.6m + 5 house/land packages at maximum of \$2m
- With a deposit of \$1.6m that will sit in our trust account
- Balance to be paid 90 days is "satisfactorily re-zoned" and if not, terminate and give back deposit.

After speaking with RG and Tony Galli - valuation is arguably reasonable.

After speaking with RG, we countered as follows:

- Price is \$12.6m + 5 house/land packages at minimum of \$2m;
- deposit of \$1.6m is payable on signing the counter-offer and to be released to you when they execute Heads of Agreement on or before 8 October 2015;
- \$1m to GOWS to walk away

Richard OK with Gows not asking for more \$1m. He feels this will be better for ALALC to get quick results and needs the victory to build momentum in ALALC now that Board starting to find its feet.

We believe that this approach, will go straight to the community meeting with the 3 weeks minimum notice.

The notice and resolution will be pretty straightforward.

This should be simple in terms of NSWALC. If Expert Panel required, worse case is that we need another valuation.

29 September 2015 update

Sam send a few comparable land sales to suggest that the price offered by Sunshine is good. Toni Galli does not demur - hard to value E2/E3.

Sam stated "up-ing Gows" offer to \$2m to allow for him, Keith "and tony" taking "their commission". Did not enquire further because Tony has a friend, Marty Perry is his Solicitor who is going to help him through whatever they're planning.

2 October 2015 update

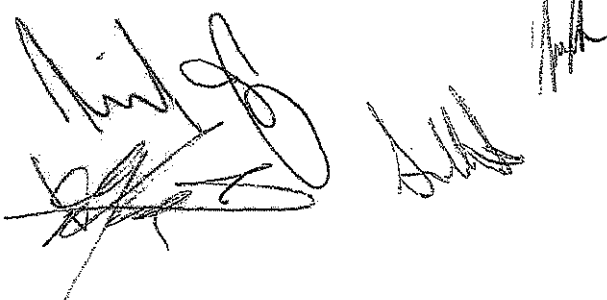
Sam and Keith wanted us to reduce Gows to \$1.6m & they will get getting their share (\$2m) from Keeju Pty Ltd, company Keith owns.

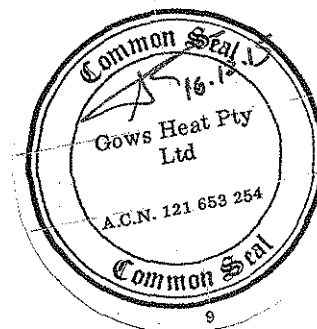
RG: happy we proceed on this basis.

wanted more completed housing stock to provide income to ALALC as a priority and prefers to work with Sunshine to ensure better type of housing and because of long term relationship, "squeezing" more out of him through Gows up-lift

Last minute update: Keiju share upped to \$2.4m - there appears to be auction going on in the Sunshine Group bidding themselves up.

Confirmed as a true record:





RUNNING MEMORANDUM OF DECLARATION, ACKNOWLEDGMENT AND CONSENT ADDENDUM 3

On 26 October, the record is updated as follows:

1. The resurrection of the Sunshine Deal

On 22 October, Keith called an urgent unscheduled meeting at Sunshine's offices to salvage a deal where Mark Driscoll, Sunshine's lawyer can work out what is really essential.

Meeting attended by NP, KR, SS, TZ and MD. The result was reported as:

- The Head of Agreement of 2 October 2015 would stand: \$12.6m, half cash, half houses;
- Gows gets out of the way first;
- The nonsense about different % for different properties ("cherry picking") is gone;
- There is a charge against the "Purchaser's obligations" against Awabakal, which is fine by us. This is probably unintended but not our problem;
- The option fee is \$716,000 of which \$400,000 can be released to Awabakal with reducing developers risk to \$316,000.
- The options over the other unclaimed land is removed and the right of first refusal only applies for a \$50,000 fee.

The key issue is that ALALC has to be comfortable with is:

Instead of getting \$1.26m from Gows on the conclusion of a simple, uncontroversial approval process and \$11,340,000 in 180 days after that, you are agreeing to present the above deal where you get \$400,000 for locking up your property for 2-3 years which may or may not result in sale in 2-3 years for the rest.

(Now that the Board started meeting again, things are different. Gows is happy to proceed as is and forget the whole Sunshine deal, so you have to be clear with what you are choosing.)

The sale of land contracts that *they* attached which are to be executed, provide for 10% deposit specified and a fixed price for each acquisition. The agreements don't square up. This means when it comes to exercising the option, there is a potential bonus here of the extra \$316,000, probably unintended.

Mark Driscoll still thinks that the contracts are unenforceable, but left it up to Tony. We don't think they are either against ALALC even with the approval process completed, but it is not for us to fix the numerous flaws.

RG agrees that it should go forth to the community because:

- This is the same (economic equivalent) as renting the Warner's Bay land for \$400,000 for the period with an option to buy at today's determined price. Money from Gows at this time is not ideal; with everyone coming out of the wood-work to fight over how to spend it. Need to get systems sorted out first.
- Zhong is happy to exchange land for housing. ALALC can gradually modify to achieve a property portfolio spread out around the development and reduce the cash cash component for community to fight over.
- Board is going great (resumed meeting) and cleaning up its act, so perfect project that they and the community will embrace.

- Gows can't afford to go into the surrounding land, whereas Sunshine provides on-going development which will re-vitalise the community for next 5 years.
- Does not matter if Sunshine doesn't come through in 2/3 years because there are many other buyers approaching us everyday, so in 2/3 years only likely to be more.

We agree that this simplified version, whilst is outside the existing resolution, and needs to be re-voted on, is not too hard to get through the approval process.

Richard conferred with DD and agreed to proceed with the settlement at 11.00 at the offices of ALALC.

2. "Settlement" on 23 October 2015 at ALAC offices

Richard, Nick both report the following:

Before arriving in Newcastle, NP and RG rang Sam who was driving together with Tony Zhong up from Sydney. Keith was not coming, which triggered the question "does he have bank cheques to settle as agreed"

Sam: No. He says he will do a TT then and there.

IP: I don't think so. Most banks have a limit on daily transfers. This is BS.

RG confirmed that the settlement should be cancelled and it was called off.

Keith attempted to resurrect the settlement by multiple phone calls. It was insisted that if comes to a settlement by presenting bank cheques, bank cheques are need.

There was a delay whilst Zhong and Sam went and got bank cheques. When they confirmed they had bank cheques, the settlement was re-scheduled.

In assembling the documents it became apparent that Mark Driscoll had made further changes overnight. Different versions of documents were presented. Different to what had been agreed the prior evening. Zhong said nothing.

The exchange at the board room of the land council took place.

There were multiple copies of originals put together and signed:

- The 2 October 2015 signed agreement confirmed and the variation executed;
- The contracts for sale to which the options to purchase related were executed with the face page of the contract for sales each of the 5 parcels of land specifying an identified price and 10% deposit were signed.
- Keeju and Gows agreements re-introduced the differential percentages that we had expressly removed.
- Gows immediate payment was unilaterally reduced from \$680,000 to \$200,000, handwritten amendments to restore the agreement reached were made.
- Execution of 12 October 2015 Deed of Rescission which provides that it becomes effective on the payment by Sunshine of \$1,600,000 to Gows.

As this was going on, Zhong was asked about the cheques and presented amounts short of what was agreed. He said he was waiting on some money from investors promising to pay later.

There was a pause. Everything stopped. Keith was not there to sign the Keeju agreement and Zhong said he would deal with Keith later. It ended awkwardly as Richard says "we thought we had an agreement, but not sure."

7. Richard and Nick told Sam and Keith that the more changes are made, the more that likely it is outside the Board's resolution to see and needs to be re-visited by the Board and approval process will take longer. The Gows offer is 10% on approval with balance is 180 days later. A simple transaction difficult to fault. If they start to add "bells and whistles", it is an entirely different process. Richard gave his "that f'ing blue book ought to be burned", "putting black fellas down" speech again.

Sam and Keith say that why the option fee of \$666,666 is offered. That is, the put and all mimics a sale. Even so, the fee is half the 10% deposit Gows is offering.

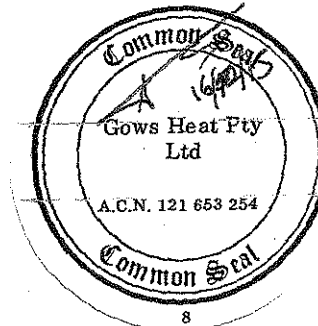
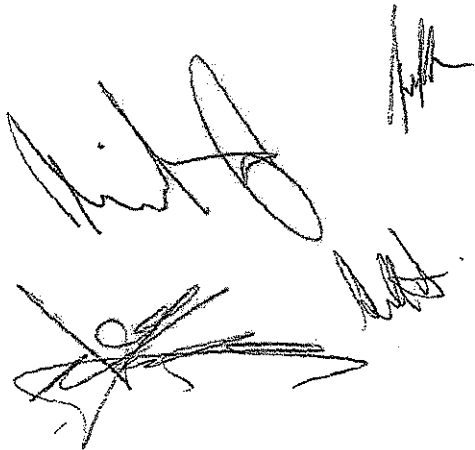
8. Further changes were made on 19 October 2015. We acknowledge and agree:

- RG says that a refund of the option fee is unacceptable.
- The requirement that ALALC "has complied with all obligations and obtained all necessary approvals etc" under the ALRA as well as the mortgage is impossible because they have to sign first and then seek approval. The more "bells and whistles" the less certain the outcome.
- We are happy with the security being over the "the performance of the Purchaser's obligations", but we don't think that is what they meant.
- RG and DD are happy signing a put and call option to take to the board because this is closest to the simple sale with Gows. The payment applications are transparent. Which parties get what, including putting the Keeju payment on the same document rather than separate documents.
- \$1,102,000 to ALALC as an option fee
- \$1,150,000 split between \$666,000 to Gows and \$533,334 to Keiju

9. Another (unsolicited) version(s) proposed by Sunshine after we have repeatedly told them that we are not prepared to keep creeping further. On 21 October,

- There is debate re clause 8.1 that recites instead of ALAC giving warranties about the approval process, we simply warrant that they were given the 90 day due diligence period to sort their issues and what they think the regulatory matters raised affect them in how to structure;
- There debate about the change of the option fee into individual properties.
- There is too much confusion with too many people having contributed to drafting too many different version, we called off the negotiations entirely.

Confirmed a true record



**RUNNING MEMORANDUM OF DECLARATION, ACKNOWLEDGMENT AND CONSENT
ADDENDUM 2**

28 October update record:

re: Gows/Sunshine/ALALC

1. 2 October 2015 round of documents— relatively small changes reducing Gow's share and improving Keeju's share. Gows protected by delayed settlement by caveat on Sunshine's properties
2. Executed versions of what ALALC and Gows agree to were sent by 7 October. Added was a first right of refusal for future lands. RG/DD accept that minimal obligation.
3. Instead of agreement by 8 October deadline, on 12 October a new bundle of agreements were sent. After having reached an agreement, we find that it is used merely as a starting point.

Agreed with Sam and Keith that it is understood that:

- (a) the exclusivity period is finished and we are looking at other offers; and,
 - (b) more work is needed that neither Gows nor ALALC are paying for. Sam and Keith agree that the 1/3 share of the due diligence amount can be claimed by KNL and they will pay \$10K from their 1/3 share.
4. In relation to the new agreement, we note:
 - Is an option agreement that is fundamentally different from a sale
 - Option fees such as \$50,000 may be fine as an option fee but does not compare with a sale which ALALC has with Gows.
 - Options start to complicate the arrangement and involves greater explanation at all levels of the approval process.
 - Deed of Rescission is added where ALALC and Gows acknowledge Gows walking away rather than just being a matter between Gows and Sunshine who replaces Gows. Presumably they want to tie all the agreements together so that ALALC can't later claim they know nothing about it, if something goes wrong somewhere (Zhong getting his back-door through Keeju?).
 5. Further changes from 15 October 2015 – became a Put and Call Option agreement rather than a simple sale of property as we had with Gows.
 6. Further changes were unilaterally introduced on 16 October 2015 which varied the Option Fee to separate out each land as individual option and assign a separate amount to each parcel. That meant that 14 Vermont Place – the "cream of the crop" can be "cherry picked" out only, leaving you the bush which will be even harder to sell. This impacts on the valuation and reasonableness of the price.

Where do we sit now?? As at 26 October 2015?

1. Zhong had to pay \$1,150,000 by 7 October 2015, and \$48,000 to Gows and Keeju (which had previously been agreed 15 October to be retained by KNL for legals going forward). The 7 October deadline came from the Revised Due Diligence Period agreement after which the \$48,000 goes to legals and re-estate costs.
2. By the variation agreement, clause 4, he had to pay ALALC \$712,000.
3. Zhong paid a cheque of \$250,000. KNL has not banked the cheque.
4. The balance of \$512,000 will, according to Keith, will be paid today.
5. Keith sent an e-mail 23 October 2015 10.11 am "Please transfer \$188,666 (\$198,666 less \$10,000 legal fees) to Keeju a/c". But no money has been received from Keeju.
6. Keith has handed an original contract he signed with Zhong. He said it was relevant to Knightsbridge because Knightsbridge is to treat it as a payment direction (clause 1.10)
7. Keith said Zhong hasn't paid him yet and is very short on funds. He said Sammy wanted the balance of "their share" of the money in trust (\$48,000) – ie 1/3 share by clause 5 of the 7 July revised due diligence agreement (less the agreed legals \$10,000 agreed by e-mail on the 15th of October to keep going through the successive changes) that is \$6,666.

Note: We understood originally that the 1/3 was allowed to cover Awabakal's agency costs, because we thought we would have Tony Galli needing to do some work, but Sam and Keith stepped in on behalf of Tony Zhong. The Project Procurement Deed properly identifies Keeju as Tony's agent, but they were understood and were doing the work covered by clause 5 of the 7 July revised due diligence expiration agreement. Clause 2.5(b) of the 2 October 2015 Heads of Agreement executed by the parties, directs the \$48,000 to Gows and Keeju.

8. We have drafted a payment disbursement authority accordingly for them to sign.
9. We have two original signed Heads of Agreement dated 2 October 2015

Version 1 has a clause 2.6 that says:

"To any extent necessary, the Vendor acknowledges and consents to the surrender and release rights by Gows"

Version 2 has a clause 2.6 that says:

"To any extent necessary, the Vendor acknowledges and consents to the surrender and release rights by Gows for the consideration paid by Gows as a condition precedent"

Obviously, version 2 tried to clean up the language in version 1, particularly in the context of the recitals and other related agreements with Gows and Keeju.

10. There are two original versions of the Variation Agreement. One version on clause 5 provides security in terms of a charge on ALALC's land for the Purchaser's obligation as it was in its agreed form on 22 October 2015. The other version provides security for the Vendor's obligation.

11. Having agreed to remove the nonsense about different % for different properties (the "cherry picking" incentive provision), and was the basis upon which agree to proceed on 22 October 2015, they then introduce it overnight surreptitiously:

In the Keeju agreement, which has nothing whatsoever to do with ALALC, they plant the differential percentages in clause 1.8 and then by clause 1.9 say that if they "cherry pick", money is to repaid to Sunshine "and this deed serves as an irrevocable instruction to Knightsbridge North Lawyers to refund the funds upon receipt as directed by Sunshine". This is then re-enforced by clause 1.10 "this deed serves as an irrevocable instruction to Knightsbridge North Lawyers to release the funds ... as directed by Keeju."

12. The manoeuvre on their part exhibits dishonesty and that they are not to be trusted. Moreover the notion they are trying to bind KNL by an agreement between Tony and Keith in which that we have no say in.

13. In the Gows Heat Surrender and Release Agreement, leaving aside the unilateral attempt to reduce its amount, which is corrected in part by a handwritten \$673,000 for payment to Gows, the same "cherry picking" incentive clauses which we agreed to be taken, are re-inserted. It is again, by clause 1(b) attempting to bind Knightsbridge North Lawyers by making the offending clause an "irrevocable instruction to Knightsbridge".

14. Security for payment is provided by a Charge over Sunshine's property. By handwritten amendment on the Zhong handwrites the relevant company as being "Sunshine Warners Bay Pty Ltd". That is, the company that offers the security is the newly formed company with no assets.

15. By the Deed of Rescission, the recession between ALALC and Gows does not come into effect until Gows receives \$1,600,000 from Sunshine.

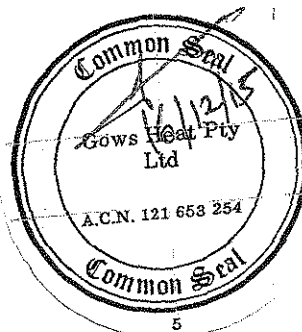
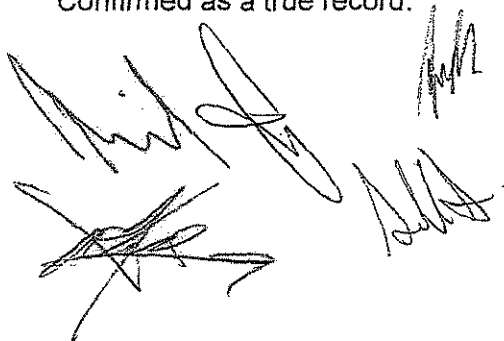
Conclusions:

We don't think this is a valid set of legally binding agreements in law (even if approved through the approval process).

Debbie and Richard agree that the deal should be cancelled and their bank cheque returned.

Gows' instructions are that it will not return funds. Its' position is that it did everything it said it would do. It is not at fault, just because Zhong gets greedy. It instructs us to put caveats on Sunshine Investment properties for the balance of its money owing.

Confirmed as a true record:



**RUNNING MEMORANDUM OF DECLARATION, ACKNOWLEDGMENT AND CONSENT
ADDENDUM 5**

UPDATE, 22 DECEMBER 2015

Subsequent to previous consolidation of events in Addendum 4:

1. \$512,000 was deposited by Zhong directly into KNL trust account.
2. On 29 October, Tony Zhong started playing "funny buggers" wanting \$48,000 paid to Keeju. We reminded him that he had no \$48,000 to direct. That was also the view of his agents in renegotiating the extra \$10K in fees because of the extra work by e-mail exchange 15 October 2015.
3. At the meeting with KR and SS, on 29 October:
 - (a) KR and SS were unhappy with the 23 October settlements. They don't know why Tony Zhong changed everything with Mark Driscoll (Zhong's lawyer);
 - (b) They are confused by Tony's emails and will remind of him the agreement of 8 July re the 1/3 each split. They said the trust payment instruction they sign will cover it anyway after paying Sam \$6,6600. (Nb: This "funny buggers" move casts doubts about Sunshine's intentions. Apparently, Keith has not been paid and funding Sam out of his own pocket.)
 - (c) KR and SS were informed that we are instructed by ALALC to return the cheque and cancel the arrangement;
 - (d) KR said that there was some misunderstanding and TZ "didn't understand and that he would sort it out with him." They instructed us "don't do anything, we will sort it out", and "we have already sorted out the 1/3 \$48k stuff, Tony forgot".
4. KR and SS were not able to resolve the issues. Instead, they suggested that Keeju and Gows can invoice Awabakal and take the \$400,000 as fees from the amount that can be "released".

Settlement revision

5. A meeting was called with Tony Zhong to give him back his bank cheque for \$250,0000. As the \$512,000 was paid directly, KNL drew a trust account cheque to give him back the \$512,000.

Richard, Nick and Despina attended the meeting with Tony Zhong and reported, that they went to Gloria jeans coffee shop in Park Street; and at the meeting:

- (a) He was told the deal is off. It was a dirty move and he cannot simply unilaterally change deal and the amounts. He can have his cheque back and the further cheque returning his \$512,000.
- (b) He asked about the Gows cheque and was told Gows did everything it said it was going to do. There was no reason why his greed and underhandedness should affect Gows. When Tony started saying "no I didn't want to change, but my lawyer told me", he was interrupted by NP saying:
"cut the bullshit, you're not an 8 year old, you're cunning and greedy playing a game. Each time we agree, you ask for more and when given it, ask for more

again. You now you want to screw these guys by 'cherry picking' the best two pieces of land, and leaving them the crap."

The \$400,000 "release" idea was always theirs and totally meaningless to ALALC. ALALC wouldn't be able to use it before the end of the approval process. With SS and KR now wanting to "invoice out" from that \$400,000, it could never be approved.

- (c) After calmness resumed, Nick said "the deal was structured by his people (Sam and Keith), not by us. It was designed to allow TZ to pay his 'secret commissions' to himself via both Gows and Keeju" Why else would you offer to pay more than was asked? And then ask for a rebate? If you want to charge your investors this way, that is a matter for you, but you can't reduce the amount everyone else has agreed." He said "things had changed. He couldn't get his normal lawyer and got Mark who told him he could only do it this way or that there is too much risk". Nick replied "that is your business, but you can't reduce everyone's money and screw the Land Council if you get scared off from whatever you originally planned."
 - (d) Richard and Nick discussed United Land Councils and the opportunities they were seeking to fund through that process. Gows was funding the fostering of these potentials. TZ was interested and wanted to pursue Wollongong and Gunedah, in particular. TZ has potential investors from China who are desperate to get their money out of China and Australian property projects is what they are looking for. TZ said the CEO of Shinwah is a personal friend of his and could agree to sign long term leases for mining worker accommodation. Such an agreement would allow bank finance for all sort of land opportunities in. They agreed that they would pursue these opportunities together with TZ having the first right of refusal to offer to this investors. TZ said he had contacts in China for pre-fab housing suitable for mining. A J/V aboriginal building company would be advantageous to take advantage of government procurement incentives, win favour with mining companies and better relations with the indigenous community.
 - (e) TZ wanted to continue with the deal and we can "forget about Keeju and all that from the equation". He said he "will take care of Keith". SS was useful for the broader project going forward even if Keith is out and would still need to be paid what he was due (acting as Keeju), even if indirectly. He agreed to direct \$400K back to Gows as originally agreed and, with Richard, to keep the balance of \$312K on account of Gows whilst Tony to "think about" what to do with that after he gets a preliminary idea of what rezoning densities of may be likely. A payment direction to Knightsbridge North Lawyers was signed by both Tony and Richard.
 - (f) Gows is "still hanging around with charge over property for balance" and a caveat would be unattractive to prospective investors. The Docs don't square up and the figures are different. It was agreed that Gows should completely and pursue other ULC investments.
 - (g) TZ said he still wanted to get an option over all the other Awabakal land.
6. The parties then pursued the relationship they agreed, further. Property Portfolios were compiled for TZ including property reports. TZ engaged a planning report for

Wollongong and was marketing the portfolio to his investors. Arrangements were advanced with an indigenous development company and residential zoned land to commence as soon as possible.

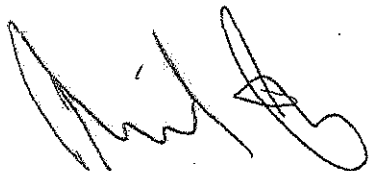
22 December settlement.

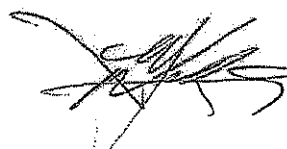
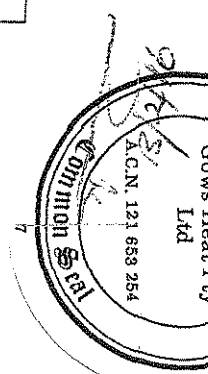
7. TZ was concerned about the announced investigation into Awabakal by the Minister of Aboriginal Affairs and wanted re-assurances for his investors.
8. Sam was offering surrounding land to his other clients and Zhong wanted clarity that he was claiming options over a list of properties he had drawn up.
9. Richard has said that on or about his birthday 28 October, when he was in Sydney with the Gomeroi applicants for their scheduled meeting days, Zhong had taken them out to Dinner and "karaoke". Richard considered this to be related to his Gomeroi meeting rather than his "Awabakal" hat. Richard agreed that this was something that cannot be repeated in any shape or form. Richard agreed that appearances were just as important and moreso when the spotlight was on the Awabakal Board.
10. Richard, Toni Manton, Nick and Despina meet to discuss the Settlement Deed drawn up to meet Zhong's investors marketing needs, called Deed of Acknowledgment Guarantee. The guarantee was confined only to provide assurances that the investigation and Debbie Date's suspension would not affect the validity of the arrangements. We had already agreed that they do not and could not. There is nothing by virtue of the investigation which affects the legal position before the assurance is given. Nothing in the investigation worsens the legal status of the agreements or changes the operation of the law. It is purely a marketing document for Zhong to use in marketing to his investors. (Zhong's concern with this investigation may have more to do with some consciousness of guilt as a result of 9).
11. Richard, then acting Chairperson executed the 22 December settlement agreement.
12. A meeting was scheduled where Nick and Despina met with Tony Zhong in a café in Burwood. Richard was on the phone by conference as he was needed to confirm the variation requested by Tony. The settlement deed provided for an identification of properties to which Zhong wanted to claim an option on in schedule 1 B. Zhong raised yet another property that he wanted to take an option over, being Lot 102, DP 118001, being 2.63 hectares of land. Richard agreed. This was then handwritten at the back of the schedule and signed.
13. Richard said that added the extra parcel was important to preserve the relationship. He did not want the investigation to derail the board (which had started gaining momentum again). The larger the development that Zhong was bringing to the community, the better in his view.
14. It was discussed that as there is likely to be a delay in presenting the arrangement through the approval process until the end of the investigation, the other opportunities in Gunnedah, Wollongong etc should be prioritised in the meantime.
15. Zhong signed a further payment instruction acknowledging the previous 3 December payment instruction and directing that KNL pay the balance to Gows' bank co-ordinates. It was agreed that Gows is therefore out of the equation as desired.

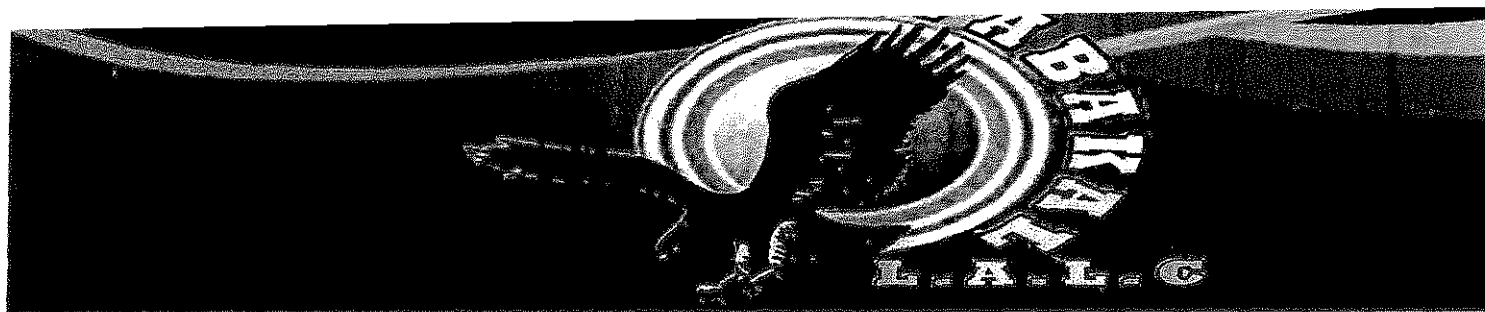
16. By clause 2, Zhong acknowledged that he paid Gows and Keeju \$926, 667 and \$250,000 respectively, squaring with our calculations concerning the "feigned confusion" back in 29 October, and agreement of 8 July 2015.
17. The meeting ended on a positive note. Zhong produced a dozen bottles of red wine in a box from a winery owned by a friend of Zhong's, and it was agreed that Nick should keep it and not be shared with Richard.
18. As a result of the various variations to the arrangements the change of position each party can be shown as follows:

23 October	22 December
Awabakal	Awabakal
Option Fee payable: \$712,000	Option Fee Payable: \$712,000
Purchase Price: \$12.6m	Purchase Price: \$12.6m
The "release" \$400K that could not be released until approvals complete	The 'release' \$400K that had to be paid on approval to proceed.
"Cherry picking" rip off possible (and incentivised)	Less Cherry picking rip off possible via the rezoning densities, but not incentivised.
Right of first refusal that is meaningless and does not identify land.	"agreement to agree" on options for surrounding land
Sale Contracts that still identify price and 10% deposit (but cherry picking)	Sale Contracts that still identify price and 10% deposit but with less cherry picking, get difference between \$1,260,000 and \$712,000, ie \$548,000 on exercise.
Gows	Gows
Payable \$1,600,000	Payable: \$0
Immediate: \$679,000	Immediate: (\$926,000 less \$105,000 for SS leaving \$821,000 to invest in furthering ULC and projects where TZ gets priority
Charge over Sunshine assets balance	No charge over sunshine's assets
Sunshine	Sunshine
	Saves \$2,824,000 plus 'increased land'
Option Fee payable: \$712,000	Option Fee Payable: \$712,000
Purchase Price: \$12.6m	Purchase Price: \$12.6m
To pay Gows: \$1.6m	To pay Gows: (saves \$674,000) NIL
Gows caveat on property any unpaid	Gows Cavet NA
Keeju \$2.4m	Keeju (saves \$2.15m) NIL
No further options over property	Further potential options over list of properties
No priority over ULC projects	Priority over ULC projects including Wollongong and Gunedah

Signed as a true record:





11 January 2016

Ms Despina Bakis
Knightsbridge North Lawyers
Level 15, 9 Castlereagh Street
SYDNEY NSW 2000

Dear Despina,

**ACQUISITION OF GOWS HEAT HEADS OF AGREEMENT
BY SUNSHINE PROPERTY INVESTMENTS PYT LTD**

Please find enclosed ratified copies of:

- Deed of Acknowledgement and Guarantee executed 21 December 2015;
- Completion Instructions, Trust Account Disbursement Instructions dated 22 December 2015 directing payment of \$312,000 to Gows Heat Pty Ltd;
- Completion Instructions, Trust Account Disbursement Instructions dated 3 December 2015 directing payment of \$400,000 to Gows Heat Pty Ltd (reduced from \$712,000) and adding notation by Richard Green that \$312,000 remain in trust for Gows pending review of the likely densities achievable;
- Westpac Payment confirmation for the \$400,000 paid on 3 December 2015 in accordance with the 3 December instructions paid to Gows Heat Pty Ltd;
- Westpac Payment confirmation for the \$312,000 paid on 22 December 2015 in accordance with the 22 December instructions paid to Gows Heat Pty Ltd;

Please let Tony know that now that Gows' is out of the way, we are doing our best to get organised at our end.

We understand that we do not need to ratify the "Memo regarding Investment Arrangements" which was provided for the purposes of declaring any potential conflict of interest of Gows, Richard, Nick and Knightsbridge in terms of United Land Councils and will keep it on file.

Yours Faithfully,

DEBBIE DATES
Chairperson

Date

21 December 2015

SUNSHINE WARNERS BAY PTY LTD
A.C.N. 608 797 039

AND

AWABAKAL LOCAL ABORIGINAL LAND COUNCIL

**DEED OF ACKNOWLEDGMENT
AND GUARANTEE**



Knightsbridge North Lawyers
Level 15, 9 Castlereagh Street
Sydney NSW 2000
PO Box 1537
North Sydney NSW 2059
Email: admin@knightsbridgelawyers.com
Ref: DB:2015013

*Received
20.12.15
[Signature]*

THIS DEED dated 2^{1st} day of December 2015

BETWEEN

1. THE AWABAKAL ABORIGINAL LAND COUNCIL of 127 Maitland Road ISLINGTON NSW 2296 ("The Owner")
2. SUNSHINE WARNERS BAY PTY LTD ACN 608 797 039 of Suite E – Level 331, 2 Park Street NSW 2000 ("The Purchaser")

RECITALS

- A. On 23 October 2015 the parties entered into an agreement for the option to purchase from the Owner, certain properties, and which involved the payment by the Purchaser a sum of \$ 1,212,000 to parties involved with, necessary to and upon the reliance upon the contract with the Owner.
- B. In addition, the Purchaser sought call options for a further properties adjacent and proximate to the properties agreed to in the 23 October 2015 agreement.
- C. On about 25 November 2015, the Purchaser became aware of the press announcement that the Minister appointed and investigator into the affairs of the Owner including the suspension of the Chairperson, Ms Debbie Dates who as party to the agreements referred to in recital A ("the controversy").
- D. The Purchaser has expended funds in marketing, property consultants in reliance upon the validity and bona fides of the agreements and has raised concern about its position by virtue of enforceable agreements it has made with third parties.
- E. The Owner assures the Purchaser that there is no reason arising from the controversy, which would comprise the validity of the arrangements or which would expose the Purchaser to additional risk of financial loss in acting on reliance thereon.
- F. The Owner assures the Purchaser that the project undertaken by the Purchaser is of significant to the indigenous community which the Owner represents and seeks to guarantee separately and independently the Owner in regards any loss that would be suffered by reason of the circumstances surrounding Recital C.
- G. The parties enter into this Deed to provide the necessary reassurance to the Purchaser to continue with the costs involved in the project.

OPERATIVE PART

1. This recitals are true and correct in every material particular.
2. The Owner guarantees the Purchaser for any loss or damage suffered by the Purchaser by continuing to proceed with the re-zoning, development process

Handwritten signature

and the project generally. Such loss is not limited to any payments made by the Purchaser to Gows and Keeju, of \$926,667.00 and \$250,000.

3. The Purchaser relies upon this guarantee to continue with the project and incur thereby further costs and refrains from taking any legal action including all claims, actions, suits, demands, costs, damages and expenses which it may have had but for the execution of this deed by reason of or arising from the controversy.
4. The parties agree that separate call option agreements will be entered into for each of the properties identified in schedule 1.

Execution page

EXECUTED AS A DEED

EXECUTED BY
THE AWABAKAL LOCAL
ABORIGINAL LAND COUNCIL



Signature of authorised officer

by its authorised officer in the presence
of:



Signature of witness



Print name of witness

Authorised officer's name:

RICHARD GREEN

Authority of officer:

ACTING CHAIRPERSON
DEPUTY CHAIRPERSON

EXECUTED BY
SUNSHINE WARNERS BAY PTY LTD
in the presence of:



Signature

Signature of witness

Print name of witness

rainbow
alt

SCHEDULE 1

Item 1: The properties

A. Properties covered by the 23rd October Agreement

14 Vermont Place, Warners Bay
(36.49 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Lake Macquarie as follows:

- Lot 100 in Deposited Plan 1180001
- Lot 2071 in Deposited Plan 1072365
- Lot 100 in Deposited Plan 1176697
- Lot 1820 in Deposited Plan 42616

291 Hillsborough Road, Warners Bay NSW 2282
(2.69 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Lake Macquarie as follows:

- Lot 1 in Deposited Plan 823734

295 Hillsborough Road, Warners Bay NSW 2282
7,882sqm

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Lake Macquarie as follows:

- Lot 2 in Deposited Plan 823734

110 Bayview Street, Warners Bay NSW 2282
(4.43 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Newcastle as follows:

- Lot 1650 in Deposited Plan 755233

Lot 3/79 Clarence Road, Waratah West NSW 2298
(1.66 Hectares)

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Newcastle as follows:

- Lot 502 in Deposited Plan 755247
- Lot 503 in Deposited Plan 755247
- Lot 504 in Deposited Plan 755247

Sanford
[Signature]

Schedule 1

B FURTHER PROPERTIES TO WHICH A CALL OPTION IS GRANTED

Described within the following Lot and Deposit Plan in the Parish of Newcastle, county of Northumberland, Local Government Area of Newcastle as follows:

1. Lot 7393, DP 1164604 being 70.45 hectares
2. Lot 101, DP 1181729 being 7.521 hectares
3. Lot 100, DP 1181729 being 5.983 hectares
4. Lot 101 DP 1180001 being 9.321 hectares
5. Lot 2061, DP 8237331 being 6.169 hectares
6. Lot 326, DP 755233, being 10.39 hectares
7. Lot 102, DP 1180001, being 2.63 hectares.

my ~~it~~

Reinforced
Subst.

Completion Instructions

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the development of the Awabakal lands currently contracted.

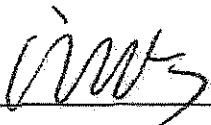
You are instructed to apply the following to funds to the following bank co-ordinates:

400

\$~~742~~000,00.00 to Gows Heat Pty Ltd into its account co-ordinates:

BSB: [REDACTED]

Account number: [REDACTED]



Sunshine Property Investment Group
Director


*\$ 312,000 to be held
on trust pending*

*rezoning
approval and
then to be*

*reviewed in light
of the densities
achieved.*



3.12.15

Banked
0 12.15/
1.11.16




Confirmation

Processing

Your payment will be received within our standard cut-off times.

Payment summary

Payer

From	Statutory Trust Account - Solicitors [REDACTED]
Payer name	KNIGHTSBRIDGE NO
Description	Awabakal Sunshine

Payee

To	Gows Heat Pty Ltd Gows Heat Pty Ltd [REDACTED]
Description	Awabakal

Payment details

Amount	\$400,000.00
Date	3 Dec 2015
Payment ID	94e07c83-08c3-4d7e-afe8-89b66eab3dbe

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New feature:

**copy
payments
& save time**

[Learn more](#)

Reviewed &
Confirmed
12-12-15 / 1-1-16
[Signature]

Commonwealth Bank

Commonwealth Bank of Australia
ABN 48 123 123 124

357 COLLINS ST MELBOURNE VIC

Bank Cheque



681151
23 October 2015

PAY KNIGHTSBRIDGE NORTH LAWYERS TRUST ACCOUNT*****

OR BEARER

THE SUM OF TWOHUNDREDTHOUSANDDOLLARSONLY*****\$200000.00

For Commonwealth Bank of Australia

For SECURITY FEATURES see reverse of cheque

Not
Negotiable

⑈681151⑈ 063⑈978⑈ 1007⑈6099⑈

Westpac
BURWOOD NSW

Westpac Banking Corporation

27/ 11 / 15

Pay SUNSHINE PROPERTY INVESTMENT GROUP PT LTD

The sum of FIVE HUNDRED AND TWELVE THOUSAND

DOLLARS ONLY

KNIGHTSBRIDGE NORTH LAWYERS PTY LTD
TRUST ACCOUNT

\$ 512,000.00

SECURITY FEATURE: THIS CHEQUE CONTAINS MICROPRINTED SIGNATURE LINES. THE ABSENCE OF WHICH MAY INDICATE A FRAUDULENT CHEQUE

⑈300103⑈ ⑈032⑈062⑈ 46⑈4157⑈

Acknowledged
22-12-15 / 11-1-16
Self



Confirmation

Processing

Your payment will be received within our standard cut-off times.

Payment summary

Payer

From Statutory Trust Account - Solicitors [REDACTED]

Payer name KNIGHTSBRIDGE NO

Description Awabakal Sunshine

Payee

To Gows Heat Pty Ltd

Gows Heat Pty Ltd [REDACTED]

Description Awabakal Sunshine

Payment details

Amount \$327,268.00

Date 22 Dec 2015

Payment ID c07375ae-b188-4a6a-821c-704315e2039c



pay your
regular
bills
automatically

Learn more

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22-12-15
Confirmed &
1-1-16
[Signature]

\$327 268—

\$312,000

14,667

326,667

Completion Instructions

DISPERSEMENT INSTRUCTIONS

North Lawyers

015

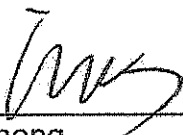
For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the potential development of the Awabakal lands pursuant to Deed executed 21 December 2015, attached hereto.

Further to the payment of \$400,000 instructed on 3 December 2015, you are instructed to apply the balance of the amount held in trust to the following bank co-ordinates:

Gows Heat Pty Ltd:

BSB: 182-512

Account number: 961569134


Tony Zhong
Sunshine Property Investment Group
Including Sunshine Warners Bay
Director

Reaffirmed 22.12.15

MA

Re-confirmed
11.1.16

Completion Instructions

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

Date: 22 December 2015

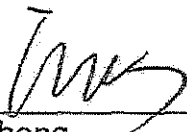
For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the potential development of the Awabakal lands pursuant to Deed executed 21 December 2015, attached hereto.

Further to the payment of \$400,000 instructed on 3 December 2015, you are instructed to apply the balance of the amount held in trust to the following bank co-ordinates:

Gows Heat Pty Ltd:

BSB: [REDACTED]

Account number: [REDACTED]



Tony Zhong
Sunshine Property Investment Group
Including Sunshine Warners Bay
Director

Ratified 22.12.15



Re-confirmed
11.1.16

Subject: Re: Awabakal Land arrangements [executed versions]

From: tony@sunshineinterior.com.au

Date: Thu, Oct 29, 2015 1:51 pm

To: "<admin@knightsbridgenorthlawyers.com>" <admin@knightsbridgenorthlawyers.com>

Thanks Despina,

I am still bit misunderstood the \$48000. Give us bit more time to work it out. Please wait us direction later.

Thanks!

Sent from my iPhone

On 29 Oct 2015, at 1:34 pm, <admin@knightsbridgenorthlawyers.com> <admin@knightsbridgenorthlawyers.com> wrote:

Tony,

Yes I have.

I trust that the matter of this \$48,000 business is resolved and that you direct that pay your share to Keeju?

Regards

Despina Bakis
Solicitor



----- Original Message -----

Subject: RE: Awabakal Land arrangements [executed versions]

From: tony@sunshineinterior.com.au

Date: Thu, October 29, 2015 12:29 pm

To: <admin@knightsbridgenorthlawyers.com>

Cc: "Sammy Say" [REDACTED] "Keith Rhee"

Hi Despina,

Please confirm you have received that 2 deposits: \$200,000 and \$512,000

Thanks!

Kind Regards,

Tony Zong

Director

Sunshine Commercial Interiors Pty Ltd

Unit 2, 46-48 Buffalo Road, Gladesvilles NSW 2111

M. 0416 028 898 P. 02 9807 5215 E. tony@sunshineinterior.com.au

From: admin@knightsbridgenorthlawyers.com [mailto:admin@knightsbridgenorthlawyers.com]

Sent: Thursday, 29 October 2015 9:46 AM

To: tony@sunshineinterior.com.au

Cc: Keith Rhee; ferntreeinvest

Subject: RE: Awabakal Land arrangements [executed versions]

Dear Tony,

The so-called exchanged contracts last Friday, have nothing to do with \$48,000.
These are separate and distinct.

I have yesterday e-mailed your offer of 30 June that was accepted. The \$50,000

was/is ~~not~~ yours to direct. Your 30 June document is quite clear.

Yours faithfully

Despina Bakis
Solicitor

<image001.png>

----- Original Message -----

Subject: Re: Awabakal Land arrangements [executed versions]
From: tony@sunshineinterior.com.au
Date: Thu, October 29, 2015 9:34 am
To: "<admin@knightsbridgenorthlawyers.com>"
<admin@knightsbridgenorthlawyers.com>
Cc: Keith Rhee [REDACTED], ferntreeinvest
[REDACTED]

Despina,

I don't think I should cover other cost, I only need give you \$712,000 according to the exchanged contract. Please release that \$48000 to Keeju. Thanks!

Sent from my iPhone

On 28 Oct 2015, at 10:09 am, <admin@knightsbridgenorthlawyers.com>
<admin@knightsbridgenorthlawyers.com> wrote:

Tony,

See your revised letter of offer sent by you to me 7 Jul 2015 4:24 pm (copied Keith and Sam as your agents). I replied by executing the offer for Awabakal (subsequently ratified) by e-mail, Wed, Jul 08, 2015 10:54 am attaching the attached copy. See clause 5. The legal fees arising to Awabakal were incurred on this basis on relying on the funds on expiration of the due diligence and non-conclusion of sale by that time.

Yours Faithfully

Despina Bakis
Solicitor

<sigimg1>

----- Original Message -----

Subject: Re: Awabakal Land arrangements [executed versions]
From: tony@sunshineinterior.com.au
Date: Wed, October 28, 2015 7:43 am
To: "<admin@knightsbridgenorthlawyers.com>"
<admin@knightsbridgenorthlawyers.com>
Cc: Keith Rhee [REDACTED], ferntreeinvest
[REDACTED]

Morning Despina,

I can't understand your calculations, please give me more details and why I need share those cost. I have paid valuation by myself already.

Sent from my iPhone

On 28 Oct 2015, at 12:01 am,

<admin@knightsbridgenorthlawyers.com>

<admin@knightsbridgenorthlawyers.com> wrote:

Dear Tony,

I reply to your question regarding the \$48,000 you say is in trust.

As you will recall, the amended and final version of the offer from you which was accepted provided for a 90 day exclusivity period for the \$50,000.

That amount was **not refundable** and was to be applied equally towards the costs of valuation, Awabakal's estate agents and vendors solicitor's fees.

As a result, your share of this towards the costs of valuation was \$16,667. You applied \$2000 of this in sponsorship, leaving you \$14,667. It is this amount that I will return to you.

Yours Faithfully,

Despina Bakis
Solicitor

<sigimg1.png>

----- Original Message -----

Subject: RE: Awabakal Land
arrangements [executed versions]

From: tony@sunshineinterior.com.au

Date: Mon, October 26, 2015 3:46 pm

To:

<admin@knightsbridgenorthlawyers.com>

Cc: "Keith Rhee"

[REDACTED]
"ferntreeinvest"

[REDACTED], "Mark
Driscoll"

<Mark.Driscoll@bcplaw.com.au>

Hi Despina,

We have exchanged the contract on 23rd Oct 2015 and gave a \$200,000 bank cheque to Nick. Have you received this? Could you please confirm this?

We will deposit \$512,000 in your account soon. Please confirm once you receive it.

We also have \$48,000 in your account before. There will be \$760,000 in total in your account from us after you receive them.

Any queries, please contact me on following.
Thanks!

Kind Regards,
Tony Zong

Unit 2, 46-48 Buffalo Road, Gladesvilles NSW
2111

M. 0416 028 898 P. 02 9807 5215 E.

tony@sunshineinterior.com.au

From: admin@knightsbridgenorthlawyers.com
[mailto:admin@knightsbridgenorthlawyers.com]

Sent: Wednesday, 21 October 2015 4:45 PM

To: tony@sunshineinterior.com.au

Cc: Keith Rhee; Samuel Say

Subject: Awabakal Land arrangements [executed versions]

Dear Tony,

Attached are the executed (signed) version of the Agreements that were made following the instructions to change them to call options etc and add the Deed of Rescission etc.

These replaced the earlier executed (signed) Heads of Agreement.

Accordingly, the attached agreements are the ones that will be accepted.

We understand that you have make calculation adjustments etc, so if you want to make these and minor handwritten changes, please do so. If you return a signed copy with the handwritten changes, then that will be sufficient.

We can add and even re-type another agreement if you think that helps you with your investors.

We are told that you will be making a payment in good faith in part fulfillment today. Our Trust account details are:

Knightsbridge North Lawyers Trust
Account:
BSB: [REDACTED]
Account: [REDACTED]

Please send a receipt of the payment so that we can enliven our clients. We will be waiting for your further instructions as to how the payments are to be made with respect to the parties.

Yours Faithfully,

Despina Bakis
Solicitor

<image001.png>

<executed awabakal agreement 8.7.15.pdf>

SUNSHINE PROPERTY INVESTMENT GROUP PTY LTD

Offer Schedule & Exclusive Due Diligence Agreement

Item

1. Property address of land being acquired (Lot/DP to be confirmed):

1. 110 Bayview Street, Warners Bay, NSW, 2282 (land area 4.43ha);
2. 14 Vermont Place, Warners Bay, NSW, 2282 (land area 36.49ha);
3. 295 Hillsborough Road, Warners Bay, NSW, 2282 (land area 7,882 m²);
4. 291 Hillsborough Road, Warners Bay, NSW, 2282 (land area 2.69ha); and
5. 3/79 Clarence Rd, "Braye Park", Waratah, NSW (1.66ha).

2. Offer Price:

The Purchaser will engage a Registered Property Valuer to prepare a Market Valuation of the land outlined in **Item 1** above. The Market Valuation will form the Purchase Price, in addition and subject to the satisfactory completion of Exclusive Due Diligence. The Purchaser will make available to the Vendor a copy of the Valuation.

3. Exclusive Due Diligence:

The Vendor agrees to grant Sunshine Property Investment Group Pty Ltd ("Sunshine") (purchasing entities or special purpose vehicles to be confirmed by the conclusion of the exclusive due diligence period) exclusive rights to conduct exclusive due diligence for a period of **90 days** from the date of executing this due diligence Agreement.

A 90 day Exclusive Due Diligence period is required so the Purchaser can procure a Market Valuation, seek town planning advice with respect to rezoning, prepare preliminary draft subdivision plans and hold discussions with relevant Planning Authorities to understand the rezoning and development potential of the various properties.

During this exclusive period, the Vendor agrees not to enter into negotiations with any third party whatsoever, nor market the property either on or off market.

The Vendor agrees to grant Sunshine and or its nominees / consultants access to the properties for the purpose of conducting due diligence.

4. Purchase Contract (via Put & Call Option):

The purchase Contract (including Put & Call Option) to be negotiated throughout the exclusive due diligence Period and executed upon the completion of satisfactory due diligence.

5. Deposit:

\$50,000 payable to vendors solicitors Trust Account upon the commencement of exclusive due diligence. The \$50,000 will not be refundable should Sunshine elect not to proceed with the acquisition following exclusive due diligence, but will be applied equally towards the costs of valuation, vendors estate agents and vendors solicitors fee.

6. Settlement:

2 years from the date of Exchange of Contracts. The Purchaser reserves the right to delay settlement for a further period of 12 months provided:

- a) After 24 months from exchange of Contracts, the properties remain unzoned and or without DA approval; and
- b) it releases to the Vendor 1% of the total purchase price to defer settlement for 12 months.

7. GST:

Purchaser to review the treatment of GST on acquisition. Margin Scheme to be applied to the Sales Contract.

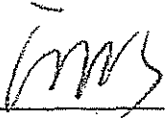
Exclusive Due Diligence Agreement executed this

^{July}
A day of June 2015.

Signed for and on behalf of:

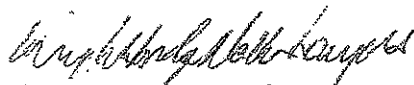
Sunshine Property Investment Group Pty Ltd

ABN 53 167 983 128



Director
Tony Zong

Signed for and on behalf of the Vendor


Debbie Dates

Name

Position

Soluto
for Auctioneer



Name

Position

Debbie Dates
Chair

Completion Instructions

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the development of the Awabakal lands currently contracted.

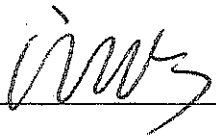
You are instructed to apply the following to funds to the following bank co-ordinates:

400

\$~~712~~2,000,00.00 to Gows Heat Pty Ltd into its account co-ordinates:

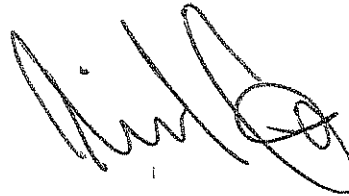
BSB: [REDACTED]

Account number: [REDACTED]



Sunshine Property Investment Group
Director

*\$ 312,000 to be held
on trust pending
R-Zoning
approval and
then to be
reviewed in light
of the densities
achieved.*



3.12.15

Completion Instructions

TRUST ACCOUNT DISPERSEMENT INSTRUCTIONS

To: Knightsbridge North Lawyers

Date: 22 December 2015

For reasons agreed between the parties, part payments to Gows are instructed to be made through funds deposited in Knightsbridge Trust Account associated with the potential development of the Awabakal lands pursuant to Deed executed 21 December 2015, attached hereto.

Further to the payment of \$400,000 instructed on 3 December 2015, you are instructed to apply the balance of the amount held in trust to the following bank co-ordinates:

Gows Heat Pty Ltd:

BSB: [REDACTED]

Account number: [REDACTED]



Tony Zhong
Sunshine Property Investment Group
Including Sunshine Warners Bay
Director

Original

Balance \$327,268
30/6/16

VARIATION AGREEMENT

On this 23rd day of October, 2015 Sunshine Warners Bay Pty Limited ACN 608 797 039 and The Awabakal Aboriginal Land Council varies the Heads of Agreement between them dated 2 October 2015 as follows:

1. The Purchaser is amended to Sunshine Warners Bay Pty Limited ACN 608 797 039 as if it had originally been named as the Purchaser under this agreement.
2. In Recital A delete "contract" and insert "agreement". In Recital B delete "stand form contracts will be prepared and exchanged once the rezoning is has been completed" and insert "the Owner grants a call option to the Purchaser in accordance with this agreement" and in the second sentence after "contracts" insert "pursuant to the call option". In Recital E delete "deposit" and insert "call option fee".
3. In I Heads of Agreement delete after "contract" on line 2 to the end.
4. Clauses 2.1 -2.5 are deleted and replaced with "In consideration of the payment of the option fee, the Vendor grants the Purchaser a call option to purchase the properties in Schedule 1 of this agreement at a total price of \$12,600,000 (inclusive of GST) in the form of the contracts attached to this agreement. The parties agree that a separate call option is granted for each property which may be exercised together or independently of each other. The call option may be exercised at any time prior to 24 October 2018 or such later date notified to the Vendor by the Purchaser prior to 24 October 2018 necessary for the Purchaser to effect the rezoning of the properties for residential development but not exceeding a period of 2 years ("Call Option Period"). The Purchaser will have such access to the properties as is necessary for the undertaking of the re-zoning process. The Purchaser will pay the Vendor an option fee of \$712,000 (Seven Hundred and Twelve Thousand Dollars) which on exercise of the option is the deposit payable under the contract for sale. An amount of \$400,000 of the option fee is released to the Vendor with the balance of \$316,000 to be held in the Vendor's solicitor's trust account.
5. As security for the performance of the Vendor's obligation under this Agreement and the contracts pursuant to the Purchaser's exercise of the call option, the Vendor agrees to charge in favour of the Purchaser its interest in the properties and consents to the lodgement of a caveat at any time on the titles to recognise the interests of the Purchaser;
6. Clause 2.7 is deleted and replaced with "In the event that the rezoning is not achieved and the Purchaser has not exercised the call options within the Call Option Period neither party will have any further rights or obligations under this agreement except that the Vendor shall refund the call option fee to the Purchaser. If the rezoning occurs during the Call Option Period but does not result in the properties being able to be subdivided for residential development at the densities assumed in the Hypothetical Feasibility Method in the Diamonds Valuations Reports dated 7 August 2015 for the properties ("Diamonds Densities") then the purchase price of the properties will be reduced by the same proportion as the densities permitted under the rezoning are to the Diamond Densities and if the call options are thereafter not exercised by the Purchaser during the Call Option Period neither party will have any further rights obligation under this agreement except that \$400,000 of the option fee will be forfeited to the Vendor but the balance of \$316,000 shall be refunded to the




Purchaser. . If the rezoning occurs during the Call Option Period which enables residential development of the properties at the Diamonds Densities but the call options are not exercised by the Purchaser during the Call Option Period neither party will have any further rights or obligations under this agreement except that the call option fee shall be forfeited to the Vendor.

Executed as an agreement

EXECUTED for and on behalf of the
**AWABAKAL ABORIGINAL LAND
COUNCIL** in accordance with and by
those with authority to so act



LEEDIE DATES
Name of Chairperson



RICHARD GREEN
Name of Deputy Chairperson

By **SUNSHINE WARNERS BAY PTY
LTD ACN 608 797 039**

under section 127 of the Corporations Act
by a director and secretary/director



Signature of director

Name of director (please print)



Signature of secretary/director

RICHARD GREEN
Name of secretary/director (please print)

VARIATION AGREEMENT

On this 23rd day of October, 2015, Sunshine Property Investment Group ABN 53 167 983 128 and The Awabakal Aboriginal Land Council varies the Heads of Agreement between them dated 2 October 2015 as follows:

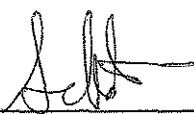
1. The Purchaser is amended to Sunshine Warners Bay Pty Limited ACN 608 797 039 as if it had originally been named as the Purchaser under this agreement.
2. In Recital A delete "contract" and insert "agreement". In Recital B delete "stand form contracts will be prepared and exchanged once the rezoning is has been completed" and insert "the Owner grants a call option to the Purchaser in accordance with this agreement" and in the second sentence after "contracts" insert "pursuant to the call option". In Recital E delete "deposit" and insert "call option fee".
3. In I Heads of Agreement delete after "contract" on line 2 to the end.
4. Clauses 2.1 -2.5 are deleted and replaced with "In consideration of the payment of the option fee, the Vendor grants the Purchaser a call option to purchase the properties in Schedule 1 of this agreement at a total price of \$12,600,000 (inclusive of GST) in the form of the contracts attached to this agreement. The parties agree that a separate call option is granted for each property which may be exercised together or independently of each other. The call option may be exercised at any time prior to 24 October 2018 or such later date notified to the Vendor by the Purchaser prior to 24 October 2018 necessary for the Purchaser to effect the rezoning of the properties for residential development but not exceeding a period of 2 years ("Call Option Period"). The Purchaser will have such access to the properties as is necessary for the undertaking of the re-zoning process. The Purchaser will pay the Vendor an option fee of \$712,000 (Seven Hundred and Twelve Thousand Dollars) which on exercise of the option is the deposit payable under the contract for sale. An amount of \$400,000 of the option fee is released to the Vendor with the balance of \$316,000 to be held in the Vendor's solicitor's trust account.
5. As security for the performance of the Purchaser's obligation under this Agreement and the contracts pursuant to the Purchaser's exercise of the call option, the Vendor agrees to charge in favour of the Purchaser its interest in the properties and consents to the lodgement of a caveat at any time on the titles to recognise the interests of the Purchaser;
6. Clause 2.7 is deleted and replaced with "In the event that the rezoning is not achieved and the Purchaser has not exercised the call options within the Call Option Period neither party will have any further rights or obligations under this agreement. If the rezoning occurs during the Call Option Period but does not result in the properties being able to be subdivided for residential development at the densities assumed in the Hypothetical Feasibility Method in the Diamonds Valuations Reports dated 7 August 2015 for the properties ("Diamonds Densities") then the purchase price of the properties will be reduced by the same proportion as the densities permitted under the rezoning are to the Diamond



Purchaser. . If the rezoning occurs during the Call Option Period which enables residential development of the properties at the Diamonds Densities but the call options are not exercised by the Purchaser during the Call Option Period neither party will have any further rights or obligations under this agreement except that the call option fee shall be forfeited to the Vendor.


Executed as an agreement

EXECUTED for and on behalf of the
**AWABAKAL ABORIGINAL LAND
COUNCIL** in accordance with and by
those with authority to so act



Debbie Dates

Name of Chairperson

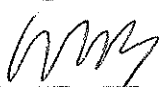


Richard Green

Name of Deputy Chairperson

By **SUNSHINE WARNERS BAY PTY
LTD ACN 608 797 039**

under section 127 of the Corporations Act
by a director and secretary/director



Signature of director

Shixin Zou

Name of director (please print)

Signature of secretary/director

Name of secretary/director (please print)

VARIATION AGREEMENT

On this 23rd day of October, 2015 Sunshine Warners Bay Pty Limited ACN 608 797 039 and The Awabakal Aboriginal Land Council varies the Heads of Agreement between them dated 2 October 2015 as follows:

1. The Purchaser is amended to Sunshine Warners Bay Pty Limited ACN 608 797 039 as if it had originally been named as the Purchaser under this agreement.
2. In Recital A delete "contract" and insert "agreement". In Recital B delete "stand form contracts will be prepared and exchanged once the rezoning is has been completed" and insert "the Owner grants a call option to the Purchaser in accordance with this agreement" and in the second sentence after "contracts" insert "pursuant to the call option". In Recital E delete "deposit" and insert "call option fee".
3. In I Heads of Agreement delete after "contract" on line 2 to the end.
4. Clauses 2.1 -2.5 are deleted and replaced with "In consideration of the payment of the option fee, the Vendor grants the Purchaser a call option to purchase the properties in Schedule 1 of this agreement at a total price of \$12,600,000 (inclusive of GST) in the form of the contracts attached to this agreement. The parties agree that a separate call option is granted for each property which may be exercised together or independently of each other. The call option may be exercised at any time prior to 24 October 2018 or such later date notified to the Vendor by the Purchaser prior to 24 October 2018 necessary for the Purchaser to effect the rezoning of the properties for residential development but not exceeding a period of 2 years ("Call Option Period"). The Purchaser will have such access to the properties as is necessary for the undertaking of the re-zoning process. The Purchaser will pay the Vendor an option fee of \$712,000 (Seven Hundred and Twelve Thousand Dollars) which on exercise of the option is the deposit payable under the contract for sale. An amount of \$400,000 of the option fee is released to the Vendor with the balance of \$316,000 to be held in the Vendor's solicitor's trust account.
5. As security for the performance of the Vendor's obligation under this Agreement and the contracts pursuant to the Purchaser's exercise of the call option, the Vendor agrees to charge in favour of the Purchaser its interest in the properties and consents to the lodgement of a caveat at any time on the titles to recognise the interests of the Purchaser;
6. Clause 2.7 is deleted and replaced with "In the event that the rezoning is not achieved and the Purchaser has not exercised the call options within the Call Option Period neither party will have any further rights or obligations under this agreement except that the Vendor shall refund the call option fee to the Purchaser. If the rezoning occurs during the Call Option Period but does not result in the properties being able to be subdivided for residential development at the densities assumed in the Hypothetical Feasibility Method in the Diamonds Valuations Reports dated 7 August 2015 for the properties ("Diamonds Densities") then the purchase price of the properties will be reduced by the same proportion as the densities permitted under the rezoning are to the Diamond Densities and if the call options are thereafter not exercised by the Purchaser during the Call Option Period neither party will have any further rights obligation under this agreement except that \$400,000 of the option fee will be forfeited to the Vendor but the balance of \$316,000 shall be refunded to the



FILE NOTE: 2 July 2015

Re: Gows and Awabakal - potential sale of rights/substitution of Sunshine Group

Conference call: Richard and Nick

Agreed that the offer is a nonsense.

Suggested changes be made so that if there is no replacement heads of agreement with Sunshine, Gows is replaced by 90 days, then deposit to cover legals and agency costs.

Richard says that Toni Galli will be running around, so want a 1/3 split to Galli, but with flexibility that others may do the work. Knightsbridge can have the remaining 1/3 (therefore not bill Gows and ALALC) and 1/3 back to Zhong.

Agreed:

FILE NOTE: 12 October 2015

Re: Gows and Awabakal - potential sale of rights/substitution of Sunshine Group – Further agreements drafted on 12 October

Note to file:

Instead of agreement by 8 October deadline, on 12 October a new bundle of agreements were sent.

After having reached an agreement, we find that it is used merely as a starting point.

Confirmed with RG and NP that Sam and Keith that it is understood that:

- (a) the exclusivity period is finished and we are looking at other offers; and,
- (b) more work is needed that neither Gows nor ALALC are paying for. Sam and Keith agree that the 1/3 share of the due diligence amount can be claimed by KNL and they will pay \$10K from their 1/3 share.

Confirmed with RG and NP that in relation to the new agreement:

- Is an option agreement that is fundamentally different from a sale
- Option fees such as \$50,000 may be fine as an option fee but does not compare with a sale which ALALC has with Gows.
- Options start to complicate the arrangement and involves greater explanation at all levels of the approval process.
- Deed of Rescission is added where ALALC and Gows acknowledge Gows walking away rather than just being a matter between Gows and Sunshine who replaces Gows. Presumably they want to tie all the agreements together so that ALALC can't later claim they know nothing about it, if something goes wrong somewhere (Zhong getting his back-door through Keeju?).

FILE NOTE: 19 October 2015

Re: Gows and Awabakal - potential sale of rights/substitution of Sunshine Group – Further agreements drafted on 19 October

Update to RG and NP:

Re unsolicited further changes proposed.

Instructions from RG:

- that a refund of the option fee is unacceptable.
- The requirement that ALALC "has complied with all obligations and obtained all necessary approvals etc" under the ALRA as well as the mortgage is impossible because they have to sign first and then seek approval. The more "bells and whistles" the less certain the outcome.

DB: Cant complain about the security being over the "the performance of the Purchaser's obligations", but we don't think that is what they meant. Key point:

- \$1,102,000 to ALALC as an option fee
- \$1,150,000 split between \$666,000 to Gows and \$533,334 to Keiju

RG: DD and RG are happy signing a put and call option to take to the board because this is closest to the simple sale with Gows.

Happy with idea that Gows payment is recorded within the ALALC new agreements because avoids issues that everything is not fully "on the table", better look from his point of view.

FILE NOTE: 21 October 2015

Re: Gows and Awabakal - potential sale of rights/substitution of Sunshine Group – Further agreements drafted on 21 October

Conference Call - RG and NP:

Re further unsolicited further changes proposed.

Richard instructions:

- Cant keep allowing them to keep creeping a little better deal for them and worse deal for us each and every time they think of something more they can screw us on
- Don't accept the idea that they can take one piece of property and leave others "cherry picking"
- There is debate re clause 8.1 that recites instead of ALAC giving warranties about the approval process, we simply warrant that they were given the 90 day due diligence period to sort their issues and what they think the regulatory matters raised affect them in how to structure;
- too much confusion with too many people having contributed to drafting too many different versions, we should call off the negotiations entirely.

Gows?: NP – Gows happy to do the deal itself as originally intended.

Conclusion:

Get back to original deal – small changes OK, but otherwise deal if off!

FILE NOTE: 29 September 2015

Re: Gows and Awabakal - potential sale of rights/substitution of Sunshine Group – amounts to Gows

Conference call: Keith, Sam and Nick

DB: Why does Sam and Keith want to increase the amount payable to Gows?

SS: That is how Keith, Sam and Tony are to be paid.

NP: Gows doesn't care as long as it gets its \$1m, but Tony?

DB: What's going on?

KR: Its all OK, it will be legal – Tony is getting advice from Marty Perry who is a good friend of his. They are going to be bringing in a lot of Chinese investor money in and are setting up a proper process for doing it.

NP: Can't afford the headache if this is a secret commission.... If you want to pay Tony or however you guys sort yourselves out, this has nothing to do with Gows or Awabakal.

DB: Awabakal cannot be involved in anything shady.

KR: No, not shady, there is a lot of migration issues that will be bundled together.

DB: so you mean, extra points for Chinese end-buyers

KR: Not sure of the details, but that sort of thing. That's Tony's lawyer problem.

NP: Gows said it was happy to pay you guys for putting the deal together, but keep us out of any arrangements you may have with Tony.

DB: From Awabakal's point of view – if you start varying the deal, we cant go straight to community meeting and has to go via the Board again. The approval process starts again. We prefer that Tony just buys all the shares in Gows.

SS: He wont because cant be sure of any contingent liabilities.

SS: We are good on the price though?

DB: Richard says that Tony Galli wont really argue it and will give his opinion to the community meeting.

FILE NOTE ADDITION 21 DECEMBER 2015

MEETING: Despina Bakis, Richard Green, Nick Petroulias, Toni Manton

Deal with Tony Zhong meeting tomorrow – on settling out the sunshine deal.

- Zhong has been looking at the property lists provided to him. Attracted by the idea of being the main marketing channel to the Chinese investor market. Good for him to show off as the 'gateway' to all this 'untapped land opportunities' to the investor market.
- Problem from a ULC point of view is that he can do the old David He "bait and switch", have ULC run around like dicks present all these opportunities which he markets to Chinese and when he gets them here, he puts them into other projects: see projects in his presentation material for ALALC community meeting for e.g.
- So need a 'loose' arrangement – From Gows point of view, he gets the first right to market each development. Will even give him a generous exclusivity period, but after that Gows should be free to form JV's etc with other developers.
- He is very vague and can't really tell if he is just full of shit. Can't clearly understand what his intentions are. Sam and Keith are just giving us salesman spin. Zhong told us at Gloria Jeans that Keith adds no value and is unnecessary. He is happy to use Sam to do the 'running around' for him.
- Richard – we have to agree that you are "way too soft" and try to avoid confrontation. Should let NP deal with Zhong firmly.
- Settlement Documents – This Deed answers what he has been asking for but no more. Pretty pointless document from ALALCs point of view, but gives him what he wants to talk to his investors.
- We don't know what is telling them and not really our concern. If he puts on a road show and starts bringing busloads of Chinese, agree that Richard or anyone from ALALC should not take part. Zhong is a slippery character. Can't risk the possibility that you have no idea what he is telling them in Chinese and Richard is sitting there looking like you have endorsed what he is saying.
- We agree that Richard has learned his lesson about being duped into a position where he can be embarrassed. No feigned hospitality. Buy your own coffee!
- When executed, re-convene with Debbie Dates to make sure she's on the same page and there is full disclosure as agreed.
- We should give him proper option deeds because current agreements are a bullshit mess. If he really does bring investors in, no serious legal due diligence will survive this pile of shit he has now.
- Now that corporate governance is the issue with the Kenny investigation, need to
- Up to now, KNL was only one solicitor of many solicitors you use. KNLs work was limited and focused. Gows was going to pay the legals, not ALALC per agreement.
- KNL was confident to rely on ostensible authority of Debbie dates and Richard Green - Rule 91
- And Was confident to rely on 31 October 2014 resolution of authority to sell and would be taken to community meeting.
- Best to ratify at board level both the old and new costs agreement.
- For the bulk of this year we have been relying on Richard relaying that he was being assured that "matter of weeks". In fact spoke to Steven Wright in my presence in about July 2015 that suggested would be solved relatively quickly.