

Appendix 1 – 1959 Pittwater Council Building Record Card

Waverley Road

1987

A. R. Jones

26/10/59
22-9-60
O.C.M.P.

Appendix 2 – Henningham Law letter 16 December 2015

COPY

EXPRESS POST

DA: N0185/15
Our ref: Bill Henningham
Your ref: Michael Doyle - Planner Development Assessment

16 December 2015

Mr Mark Ferguson
General Manager
Pittwater Council
PO BOX 882
MONA VALE NSW 1660

Dear Mr Ferguson

DEVELOPMENT APPLICATION No N0185/15
DEVELOPMENT: ALTERATIONS AND ADDITIONS TO EXISTING DWELLING
INCLUDING DECK AND STUDIO
PROPERTY: 1B THE SEPENTINE, BILGOLA BEACH
LOT 1 DP 232164

We act for Bruce McConochie, the owner of the above property being Lot 1 in Deposited Plan 232164 ("the property"). A copy of the DP marked "A" is enclosed. Mr McConochie's representative, Vaughan Milligan, has been communicating with Michael Doyle of Council.

Enclosed, marked "B", is a copy of an extract from the Table to clause 26 of the County of Cumberland Planning Scheme Ordinance ("the Ordinance"), which applied to the property and took effect on 27 June 1951. It should be noted that land used for the purpose of dwelling houses was zoned as "Living Area" under the Ordinance and dwelling houses "could be erected or used *without consent* of responsible authority". Land zoned Living Area was identified by "Light scarlet colour" in the "scheme map". A copy of the relevant Planning Scheme map dated 27 June 1951 is enclosed marked "C". An enclosed enlarged extract from the scheme map (marked "D") appears to show the whole Bilgola Beach residential area, including the property, as Living Area.

You will note from the enclosure marked "E" that the subject land was previously part of Lot 4A in Plan H162644. A copy of dealing H162644 dated 28 November 1958, marked "F" is enclosed. This dealing created a right of carriageway appurtenant to Lot 4a as shown in the enclosed copy title search marked "G". The Transferor was apparently a resident of Lot 4A.

Council has provided to Mr Milligan an aerial photograph, which we have perused, showing a dwelling on the subject land in 1961.

It appears to us that the the subject dwelling was lawfully erected (i.e. within the Living Area zone) at some time between 1952 and 1961 and the residential use/purpose of the land and dwelling has continued since, without any abandonment.

The Shire of Warringah Planning Scheme Ordinance took effect on 5 June 1963. It superseded the County of Cumberland Planning Scheme Ordinance. To our knowledge this instrument did not prohibit the erection or use of a dwelling house on the property.

Pittwater Local Environmental Plan 1993 was gazetted on 4 February 1994. To our knowledge, this instrument did not prohibit the erection or use of a dwelling house on the property.


As you will be aware, by virtue of section 106 of the Environmental Planning and Assessment Act 1979 ("the EPA Act"), an existing use is the use of a building, work or land for a lawful purpose immediately before an environmental planning instrument which would prohibit that use comes into force.

The Pittwater Local Environmental Plan 2014 came into effect on 27 June 2014. We are aware that Zone SP2 Infrastructure under this instrument prohibits the erection or use of a dwelling house on so much of the property as is indicated in the Pittwater LEP 2014 Zoning Map. Accordingly, it is our opinion, that on 27 June 2014 the residential use/purpose of the property became an existing use. The continuance of the existing use is protected by section 107(1) of the EPA Act despite the fact that the use is now prohibited by an environmental planning instrument.

It will be necessary for our client to seek consent, pursuant to clause 43 of the Environmental Planning and Assessment Regulation 2000, for alteration and extension of the building erected on the property the subject of the existing use, in accordance with his development proposal.

We trust that further consideration of our client's development application will now proceed.

Yours faithfully


HENNINGHAM LAW

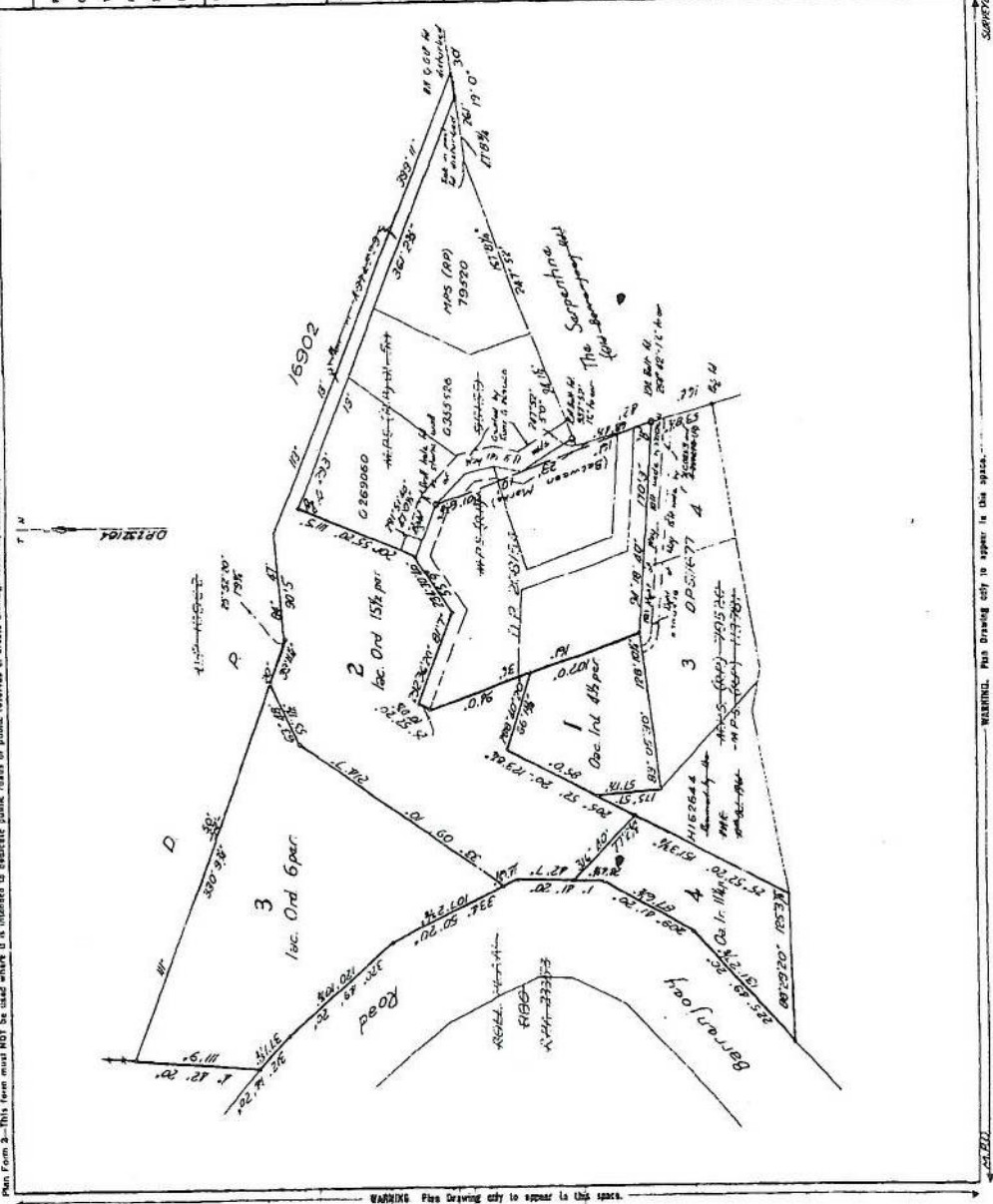
The writer, Bill Henningham, specialises in local government law, environmental planning law and dispute resolution. He is the part-time Lecturer and Examiner in the subjects of Local Government and Planning Law and Conveyancing in the Legal Profession Admission Board/University of Sydney Law Extension Committee Diploma in Law Course.

Bill was a foundation member of the Environmental Planning and Development Law Committee of The Law Society of NSW, and is the author of chapters on Local Government Law and Practice in Lexis-Nexis Butterworths Local Government Planning and Environment Service Commentary C.

CONVERSION TABLE ADDED IN
LEGIST'S GENERAL'S DEPARTMENT

[illegible]

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION.

[illegible]

U.S. 11 124 SUNDAY

1. Bruce Richard DeWitt, Brigadier General for New South Wales, testifies that this negative is a photograph made as a permanent record of a

CONTACTS OR ADDITIONAL WITNESSES IN PLACE
IN REGISTRAR GENERAL'S OFFICE.

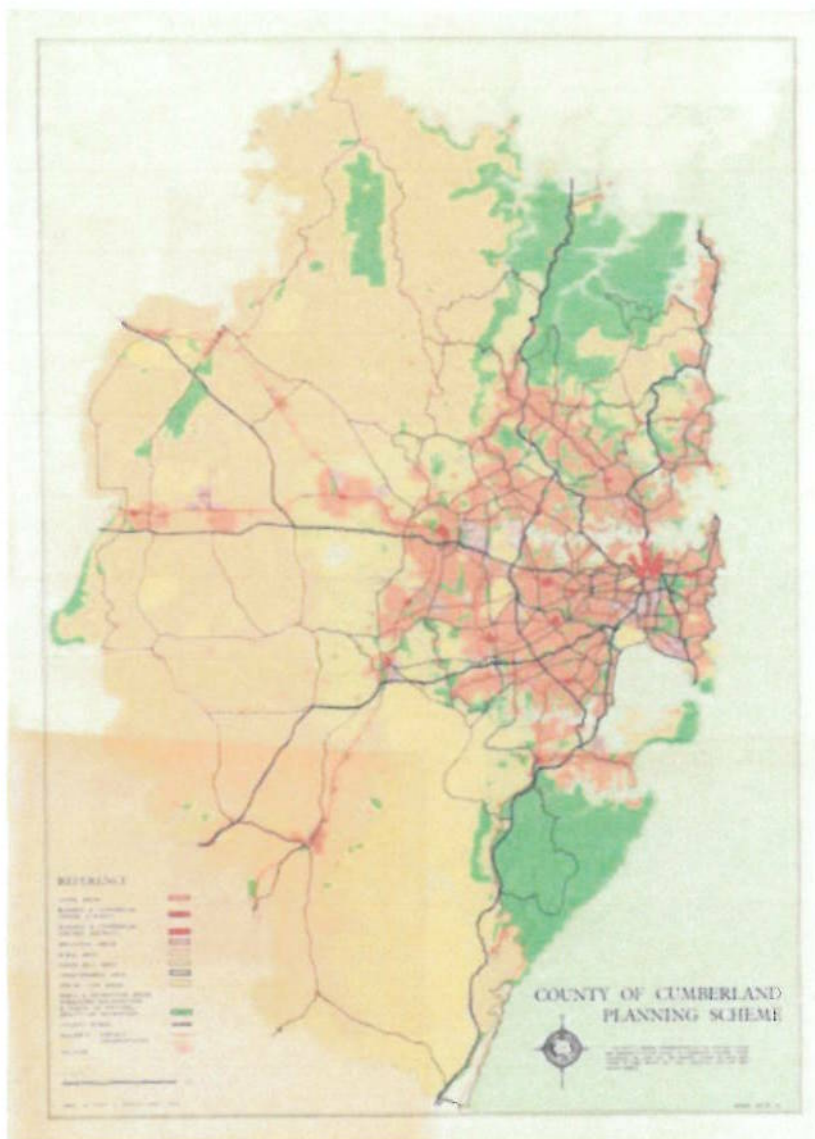
-WARNING. Piss Drawing only to appear in this space.-

TABLE.
PART I.

<i>Column I.</i> Zone.	<i>Column II.</i> Reference to scheme map.	<i>Column III.</i> Purposes for which buildings may be erected or used <i>without consent</i> of responsible authority.	<i>Column IV.</i> Purposes for which buildings may be erected or used only with the consent of the responsible authority.	<i>Column V.</i> Purposes for which buildings may not be erected or used.
1. Living Area	Light scarlet colour	Dwelling-houses	Residential buildings; places of public worship; places of assembly; places of instruc- tion; public buildings; hos- pitals; shops; commercial premises, other than ware- houses and bulk stores; pro- fessional chambers; local light industries; utility in- stallations other than gener- ating works; any other pur- pose not referred to in Column III or Column V.	Generating works; ware- houses; bulk stores; indus- tries other than local light industries; mines; institu- tions; drive-in theatres.

"C"

Planning Scheme Maps, 1945+ - Cumberland Planning Scheme - 27 June 1951



Download

[Return to](#) | [Home page](#) | [Index page](#) | [Top](#)

"D"



"E"



CONVERSION TABLE ADDED IN
REGISTER GENERAL'S DEPARTMENT

FEET INCHES	METRES
30 -	3.048
33 -	3.352
36 -	3.658
39 -	3.962
42 -	4.267
45 -	4.572
48 -	4.877
51 -	5.182
54 -	5.487
57 -	5.792
60 -	6.096
63 -	6.401
66 -	6.706
69 -	7.011
72 -	7.316
75 -	7.621
78 -	7.926
81 -	8.231
84 -	8.536
87 -	8.841
90 -	9.146
93 -	9.451
96 -	9.756
99 -	10.061
102 -	10.366
105 -	10.671
108 -	10.976
111 -	11.281
114 -	11.586
117 -	11.891
120 -	12.196
123 -	12.501
126 -	12.806
129 -	13.111
132 -	13.416
135 -	13.721
138 -	14.026
141 -	14.331
144 -	14.636
147 -	14.941
150 -	15.246
153 -	15.551
156 -	15.856
159 -	16.161
162 -	16.466
165 -	16.771
168 -	17.076
171 -	17.381
174 -	17.686
177 -	17.991
180 -	18.296
183 -	18.601
186 -	18.906
189 -	19.211
192 -	19.516
195 -	19.821
198 -	20.126
201 -	20.431
204 -	20.736
207 -	21.041
210 -	21.346
213 -	21.651
216 -	21.956
219 -	22.261
222 -	22.566
225 -	22.871
228 -	23.176
231 -	23.481
234 -	23.786
237 -	24.091
240 -	24.396
243 -	24.701
246 -	25.006
249 -	25.311
252 -	25.616
255 -	25.921
258 -	26.226
261 -	26.531
264 -	26.836
267 -	27.141
270 -	27.446
273 -	27.751
276 -	28.056
279 -	28.361
282 -	28.666
285 -	28.971
288 -	29.276
291 -	29.581
294 -	29.886
297 -	30.191
300 -	30.496
303 -	30.801
306 -	31.106
309 -	31.411
312 -	31.716
315 -	32.021
318 -	32.326
321 -	32.631
324 -	32.936
327 -	33.241
330 -	33.546
333 -	33.851
336 -	34.156
339 -	34.461
342 -	34.766
345 -	35.071
348 -	35.376
351 -	35.681
354 -	35.986
357 -	36.291
360 -	36.596
363 -	36.901
366 -	37.206
369 -	37.511
372 -	37.816
375 -	38.121
378 -	38.426
381 -	38.731
384 -	39.036
387 -	39.341
390 -	39.646
393 -	39.951
396 -	40.256
399 -	40.561
402 -	40.866
405 -	41.171
408 -	41.476
411 -	41.781
414 -	42.086
417 -	42.391
420 -	42.696
423 -	43.001
426 -	43.306
429 -	43.611
432 -	43.916
435 -	44.221
438 -	44.526
441 -	44.831
444 -	45.136
447 -	45.441
450 -	45.746
453 -	46.051
456 -	46.356
459 -	46.661
462 -	46.966
465 -	47.271
468 -	47.576
471 -	47.881
474 -	48.186
477 -	48.491
480 -	48.796
483 -	49.101
486 -	49.406
489 -	49.711
492 -	50.016
495 -	50.321
498 -	50.626
501 -	50.931
504 -	51.236
507 -	51.541
510 -	51.846
513 -	52.151
516 -	52.456
519 -	52.761
522 -	53.066
525 -	53.371
528 -	53.676
531 -	53.981
534 -	54.286
537 -	54.591
540 -	54.896
543 -	55.201
546 -	55.506
549 -	55.811
552 -	56.116
555 -	56.421
558 -	56.726
561 -	57.031
564 -	57.336
567 -	57.641
570 -	57.946
573 -	58.251
576 -	58.556
579 -	58.861
582 -	59.166
585 -	59.471
588 -	59.776
591 -	60.081
594 -	60.386
597 -	60.691
600 -	60.996
603 -	61.301
606 -	61.606
609 -	61.911
612 -	62.216
615 -	62.521
618 -	62.826
621 -	63.131
624 -	63.436
627 -	63.741
630 -	64.046
633 -	64.351
636 -	64.656
639 -	64.961
642 -	65.266
645 -	65.571
648 -	65.876
651 -	66.181
654 -	66.486
657 -	66.791
660 -	67.096
663 -	67.401
666 -	67.706
669 -	68.011
672 -	68.316
675 -	68.621
678 -	68.926
681 -	69.231
684 -	69.536
687 -	69.841
690 -	70.146
693 -	70.451
696 -	70.756
699 -	71.061
702 -	71.366
705 -	71.671
708 -	71.976
711 -	72.281
714 -	72.586
717 -	72.891
720 -	73.196
723 -	73.501
726 -	73.806
729 -	74.111
732 -	74.416
735 -	74.721
738 -	75.026
741 -	75.331
744 -	75.636
747 -	75.941
750 -	76.246
753 -	76.551
756 -	76.856
759 -	77.161
762 -	77.466
765 -	77.771
768 -	78.076
771 -	78.381
774 -	78.686
777 -	78.991
780 -	79.296
783 -	79.601
786 -	79.906
789 -	80.211
792 -	80.516
795 -	80.821
798 -	81.126
801 -	81.431
804 -	81.736
807 -	82.041
810 -	82.346
813 -	82.651
816 -	82.956
819 -	83.261
822 -	83.566
825 -	83.871
828 -	84.176
831 -	84.481
834 -	84.786
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840 -	85.396
843 -	85.701
846 -	86.006
849 -	86.311
852 -	86.616
855 -	86.921
858 -	87.226
861 -	87.531
864 -	87.836
867 -	88.141
870 -	88.446
873 -	88.751
876 -	89.056
879 -	89.361
882 -	89.666
885 -	89.971
888 -	90.276
891 -	90.581
894 -	90.886
897 -	91.191
900 -	91.496
903 -	91.801
906 -	92.106
909 -	92.411
912 -	92.716
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921 -	93.631
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927 -	94.241
930 -	94.546
933 -	94.851
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954 -	96.986
957 -	97.291
960 -	97.596
963 -	97.901
966 -	98.206
969 -	98.511
972 -	98.816
975 -	99.121
978 -	99.426
981 -	99.731
984 -	100.036
987 -	100.341
990 -	100.646
993 -	100.951
996 -	101.256
999 -	101.561
1002 -	101.866
1005 -	102.171
1008 -	102.476
1011 -	102.781
1014 -	103.086
1017 -	103.391
1020 -	103.696
1023 -	104.001
1026 -	104.306
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1032 -	104.916
1035 -	105.221
1038 -	105.526
1041 -	105.831
1044 -	106.136
1047 -	106.441
1050 -	106.746
1053 -	107.051
1056 -	107.356
1059 -	107.661
1062 -	107.966
1065 -	108.271
1068 -	108.576
1071 -	108.881
1074 -	109.186
1077 -	109.491
1080 -	109.796
1083 -	110.101
1086 -	110.406
1089 -	110.711
1092 -	111.016
1095 -	111.321
1098 -	111.626
1101 -	111.931
1104 -	112.236
1107 -	112.541
1110 -	112.846
1113 -	113.151
1116 -	113.456
1119 -	113.761
1122 -	114.066
1125 -	114.371
1128 -	114.676
1131 -	114.981
1134 -	115.286
1137 -	115.591
1140 -	115.896
1143 -	116.201
1146 -	116.506
1149 -	116.811
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1155 -	117.421
1158 -	117.726
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1188 -	120.776
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1197 -	121.691
1200 -	121.996
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1305 -	132.671
1308 -	132.976
1311 -	133.281
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1323 -	134.501
1326 -	134.806
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1347 -	136.941
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1359 -	138.161
1362 -	138.466
1365 -	138.771
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1386 -	140.906
1389 -	141.211
1392 -	141.516
1395 -	141.821
1398 -	142.126
1401 -	142.431
1404 -	142.736
1407 -	143.041
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1479 -	150.361
1482 -	150.666
1485 -	150.971
1488 -	151.276
1491 -	151.581
1494 -	151.886
1497 -	152.191
1500 -	152.496
1503 -	152.801
1506 -	153.106
1509 -	153.411
1512 -	153.716
1515 -	154.021
1518 -	

7 DEC 1959



R.P. 13.

No.

H 162644

MAR 6 10 49

New South Wales

MEMORANDUM OF TRANSFER

(REAL PROPERTY ACT, 1900.)



FEES:—
Lodgment 2:—
Endorsement :—
Certificate 2:10:—
Plan 1:10:—
Stamp 10:—
£ 6:10:1

(Trusts must not be disclosed in the transfer.)

Typing or handwriting in this instrument should not extend into any margin. Handwriting should be clear and legible and in permanent black non-copying ink.

a If a less estate, strike out "in fee simple" and interline the required alteration.

b State in full the name of the person who furnished the consideration monies.

c Show in BLOCK LETTERS the full name, present address and description of the persons taking, and if more than one, whether they hold as joint tenants or tenants in common.

d The description may refer to parcels shown in Town or Parish Maps issued by the Department of Lands or shown in plans filed in the Office of the Registrar-General. Where these records are inadequate for the purpose, a suitable plan may be endorsed hereon, or furnished as an annexure signed by the parties and their signatures witnessed.

Where the consent of the local Council to a subdivision is required the certificate and plan mentioned in the Local Government Act, 1919, should accompany the transfer.

e A very short note will suffice.

f Execution in New South Wales may be proved if this instrument is signed or acknowledged before the Registrar-General, or Deputy Registrar-General, or a Notary Public, a J.P., or Commissioner for Affidavits, to whom the Transferor is known, otherwise the attesting witness should appear before one of the above functionaries who having questioned the witness should sign the certificate on the back of this form.

As to instruments executed elsewhere, see Section 107 of the Real Property Act 1900-1956, Section 108 of the Conveyancing Act, 1919-1954 and Section 82A of the Evidence Act 1898-1954.

g Repeat attestation if necessary.

If the Transferor or Transferee signs by a mark, the attestation must state "that the instrument was read over and explained to him, and that he appeared fully to understand the same."

I, MARGARET BRADLEY of Pilgola, Widow.

being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject, however, to such encumbrances, liens and interests as are notified hereunder, in consideration of TWO THOUSAND ONE HUNDRED POUNDS—

£2100.0.0) (the receipt whereof is hereby acknowledged) paid to me by JOAN MARGARET BRADLEY.

do hereby transfer to

JOAN MARGARET BRADLEY of Old Warrenjoey Road, Pilgola, Spinster.

(herein called transferee)*

ALL such my Estate and Interest in ALL THE land mentioned in the schedule following:—

County.	Parish.	Reference to Title			Description of Land (if part only). (d)
		Whole or Part.	Vol.	Fol.	
CUMBERLAND	NARRABERN	PART	2595	138	Being Lot 4b shown in plan annexed hereto marked "A". PLAN FILED IN PLAN ROOM AS NO. 413781
"	"	WHOLE	7501	62	

RESERVING to the Transferor as appurtenant to Lot 4a of the said plan a right of carriageway over that part of the land hereby transferred shown as "site of proposed Right of Way 10' wide" ENCUMBRANCES, &c., REFERRED TO:

Reservations in former Series Vol 7501 Folios 62

Signed at Sydney the 29th day of November 1958.

Signed in my presence by the transferor

WHO IS PERSONALLY KNOWN TO ME

[Signature]

Margaret Bradley
Transferor.*

Signed

Signed in my presence by the transferee

WHO IS PERSONALLY KNOWN TO ME

[Signature]

I Accepted, and I hereby certify this Transfer to be correct for the purposes of the Real Property Act.

[Signature]
Transferree(s).

* If signed by virtue of any power of attorney, the original power must be registered in the Miscellaneous Register, and produced with each dealing, and the memorandum of non-revocation on back of form signed by the attorney before a witness.

† N.B.—Section 117 requires that the above Certificate be signed by each Transferee or his Solicitor or Conveyancer, and renders any person falsely or negligently certifying liable to a penalty of £50; also to damages recoverable by parties injured. Acceptance by the Solicitor or Conveyancer (who must sign his own name, and not that of his firm) is permitted only when the signature of the Transferee cannot be obtained without difficulty, and when the instrument does not impose a liability on the party taking under it. When the instrument contains some special covenant by the Transferee or is subject to a mortgage, encumbrance or lease, the Transferee must accept personally.

No alterations should be made by erasure. The words rejected should be scored through with the pen, and those substituted written over them, the alteration being verified by signature or initials in the margin, or noticed in the attestation.