



4 November 2016

Waverley Council
PO Box 9
Bondi Junction NSW 1355

Attention: Andrew Connor, Senior Assessment Planner

Dear Andrew

Development application DA-569/2015, 109-119 Oxford Street and 34-42 Spring Street Bondi Junction

I refer to the above described development application and provide supplementary documentation to demonstrate that ongoing negotiations have been carried out with the adjoining property owner of 32 Spring Street between November 2014 and October 2016.

We note that a submission has previously been provided to Council relating to negotiations with the adjacent property owner of 32 Spring Street. This previous submission remains applicable.

Our previous submission gave consideration to current planning principles established through the findings of relevant Land and Environment Court cases, namely:

- Melissa Grech v Auburn Council [2004] NSWLEC 40
- Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189

The above cases established planning principles relevant to the isolation of a site by redevelopment of adjacent site(s) and where intensification of development is anticipated. As the proposed development does not include No 32 Spring Street, the above cases are considered relevant to ensure that due consideration has been given to the potential isolation of this land.

Our assessment demonstrated compliance with the relevant planning principles.

The following key points are reinforced for your reference:

- There is no minimum frontage, site area requirement or minimum parking requirement specified by Council or within the Waverley DCP or LEP that would prevent redevelopment of 32 Spring Street on its own, to its maximum potential.
- A retail / commercial development is considered the most suitable development option for 32 Spring Street given its southern orientation. This is permitted in the zoning and will add to the desired future character of the area and the adjoining commercial core to the east. Opportunity to develop this site has been demonstrated in our previous submission and remains applicable.
- The developer has exhausted all possibilities to attract the owner of 32 Spring Street into selling his site, including offers to purchase the site at a price well in excess of the current land value, as well as accommodating his dental practice with the future completed development.
- A recent property valuation attained for 32 Spring Street, dated 1 Nov 2016, identifies a market value of \$1,930,000. The applicant offered to purchase the land at a price of \$3,350,000 which is substantially above this independent valuation. It is further noted that a market appraisal by local agent Richardson & Wrench, dated 15 April 2015 valued the property at \$1,520,000. Both the valuation and market appraisal are included within the attached documentation.



- The owner has advised that he does not wish to sell and intends to continue to operate his business from the premises and does not object to the proposed development proceeding without him.

It is reinforced that our client has repeatedly sought to negotiate an agreement to purchase the land at 32 Spring Street, most recently up until 25th October 2016, when the owner yet again changed his mind and decided not to proceed with the sale. The terms of offer have been most generous and have been well in excess of current land valuations.

It is understood that the adjacent property owner has decided not to proceed with the sale of 32 Spring Street. To my **client's** disappointment, this has been confirmed as recently as 25 October 2016. The reasoning for not proceeding with the sale is that the owner is worried about the prospect of relocation / disruption to his business.

Notwithstanding our **client's** attempts to amalgamate, the property at 32 Spring Street is capable of development independently. Plans previously submitted demonstrate how a FSR of 5:1 can be achieved on the site. Further, improved access to the property is to be provided via our clients proposed through-site link between Oxford Street / Spring Street with opportunity for future connectivity to this space from 32 Spring Street. This will enhance the retail value of the neighbouring property at 32 Spring Street.

An updated timeline of correspondence and offers is included as Appendix A and is supported by copies of all relevant correspondence. It is noted that personal details have been blacked out to maintain privacy.

I am happy to discuss the above and can be contacted on 0401 666 561.

Yours sincerely

Marion Lourens
Project Manager
marion@elton.com.au

Appendix A. Timeline of correspondence and offers

An overview of correspondence relating to the attempted purchase of 32 Spring Street is provided below:

Date	Form of correspondence	Reference
2014 - 2015		
11 November 2014 – 7 April 2015	Text messages between Marcello Bo, Project Sales Manager at Ray White Properties and the owner of 1/32 Spring Street	Attachment 1
7 April 2015	Copy of letter from Ray White confirming negotiations with both strata lots at 32 Spring Street	Attachment 1
15 April 2015	Market appraisal for 32 Spring Street	Attachment 1
17 April 2015	Copy of letter from Ray White confirming and offer of \$1,500,000 plus relocation costs has been submitted for 1/32 Spring Street	Attachment 1
20 April 2015	Copy of letter from Ray White to the applicants solicitors confirming negotiations to purchase 1/32 Spring St for the sum of \$1,025,000 where concluded and a sales advice was issued. A copy of the sales advice is included	Attachment 1
04 May 2015	Email from Solicitor on behalf of the owner of 1/32 Spring Street advising that they were instructed to sell the property to the adjoining owner in the Strata Plan	Attachment 1
12 May 2015	Copy of letter from Ray White to confirm that several offers had been put forward to the owner of 1/32 Spring Street. The letter advised that the property owner was not interested in selling the land or willing to engage in further communications regarding this matter	Attachment 1
19 June 2015	Email to property owner 32 Spring St regarding to negotiations to purchase. Email requested further discussions should they be interested in selling the property	Attachment 1
23 June 2015	Email to property owner 32 Spring St regarding to negotiations to purchase. Email requested further discussions should they be interested in selling the property	Attachment 1
26 June 2015	Copy of letter from the applicants solicitors advising that the vendor for 1/32 Spring Street decided to sell to the owner of the other strata lot (2/32 Spring Street)	Attachment 1
02 July 2015	Email advising of phone discussion with the owner of 32 Spring Street. The owner indicated he had no wish to sell and had no concerns with the development progressing adjacent to his site	Attachment 1

Date	Form of correspondence	Reference
2016		
7 June 2016	Meeting between applicant and property owner of 32 Spring Street. Email documenting meeting sent to applicant's solicitor	Attachment 2
8 June 2016	Survey of 32 Spring Street provided to land owner	Attachment 2
12 July 2016	Text message from property owner relating to negotiation of sale and lease arrangements	Attachment 3
14 July 2016	Clarification of discussions between applicant's solicitor and land owner's solicitor confirming agreement for the sale of the land	Attachment 3
25 July 2016	Agreed terms of sale for 1/32 and 2/32 Spring Street emailed from applicant to property owner	Attachment 3
26 July 2016	Text message to landowner following up on email dated 25 July 2016	Attachment 3
1 August 2016	Text message to landowner seeking clarification on status of sale	Attachment 4
3 August 2016	Text message to landowner seeking clarification on status of sale	Attachment 4
24 August 2016	Text message to landowner seeking clarification on status of contract	Attachment 4
25 August 2016	Draft terms of sale distributed to land owner and applicant	Attachment 4
29 August 2016	Confirmation from applicant that draft terms of sale are satisfactory	Attachment 4
6 September 2016	Text message to landowner seeking clarification on status of contract	Attachment 5
7 September 2016	Revised terms of sale prepared with an agreed sale price of \$3,350,000 for Suites 1/32 and 2/32 Spring Street.	Attachment 5
12 September 2016	Clarification sought regarding the provision of draft documents from the land owner's solicitor	Attachment 5
15 September 2016	Email from land owners solicitor regarding terms of sale. Clarification provided from applicant confirming terms are agreed Deed of Call Option to be drafted under separate cover	Attachment 5
26 September 2016	Phone call to land owners solicitor requesting Deed of Call Option Advised no progress to date	Attachment 5
26 September 2016	Deed of Call Option sent to applicant	Attachment 5

Date	Form of correspondence	Reference
27 September 2016	Phone message left and email sent to land owners solicitor Deed of Call Option sent to applicant for approval before sending to land owner	Attachment 5
4 October 2016	Phone message left for land owners solicitor	Attachment 6
6 October 2016	Email from applicants solicitor advising that during a telephone discussion with the land owners solicitor, they advised that the land owner was reconsidering proceeding with the sale due to concerns about relocating his dental surgery. Owners solicitor confirmed that the decision is not price related and that the owner was happy with the price Telephone discussion with the owner of 1/32 and 2/32 Spring Street	Attachment 6
11 October 2016	Email from Solicitor on behalf of the owner of 1/32 and 2/32 Spring Street advising that they were awaiting clarification on whether the land owner wishes to proceed with the sale	Attachment 6
25 October 2016	Email from applicants Solicitor seeking final confirmation that the owner of 32 Spring Street no longer wishes to proceed with sale	Attachment 6
04 November 2016	Independent valuation prepared showing market value of \$1,930,000, which is \$1,420,000 below the \$3,350,000 offered by the applicant	Attachment 7

1 2014 -2015 - Correspondence

2 June 2016 – Correspondence

3 July 2016 - Correspondence

4 August 2016 – Correspondence

5 September 2016 - Correspondence

6 October 2016 – Correspondence

7 Valuation

19 Nov 2014, 1:51 PM

Thnx Marcello. Will let
u know Friday.

26 Nov 2014, 10:16 AM

Hi Noel. U free to meet
today

Out of town till arvo.
Txt at1

Ok no probs

Can we make it
3.30pm at Maroubra?

Ok. I have a 2.30
meeting at BJ so
should make it. Will
text u if I'm running 10

text u if I'm running 10
late. Where?

K

Where we meeting in
Maroubra?

At Phils

Ok mate.

26 Nov 2014, 3:01 PM

On my way

Same

1 Dec 2014, 12:00 PM

Do u have a number
for me??

for me??

6 Feb 2015, 1:07 PM

Hi mate. Need to talk.
When are you free for
quick coffee?

Ok. Costas?

13 Feb 2015, 9:01 AM

Hi mate. Any update
on your situation? We
have until Friday to let
them know what we
are doing.

15 Feb 2015, 9:57 AM

Elia Leis

EL



In 5 mins

K

15 Feb 2015, 9:34 AM

Txt me Ilyas mob #

Ok

10 Mar 2015, 11:17 AM

U. Th

??

Will c when i get t wk

Sorry Don't
understand shorthand

Driving Willenhall

15 Feb 2015, 9:57 AM

Elia Leis

EL



17 Feb 2015, 6:19 PM

Did u call Elia ?

10 Mar 2015, 11:11 AM

Hi mate. Are u free to
meet today?

iMessage

7 Apr 2015, 2:28 PM

Hi Noel. U free for a
coffee?

Delivered

**Driving. Will c when i
get t work**

Ok

10 Mar 2015, 2:01 PM

Anything?

10 Mar 2015, 4:11 PM

**Not free. Try again
tmorrow arvo mayb**

12 Mar 2015, 11:39 AM

How we looking?

16 Mar 2015, 12:24 PM

Something??

Something??

Get bak t u

Noel I'm trying my best to arrange a meeting for your property. I'm really busy and can't keep chasing. Leave it up to you from here on

K

7 Apr 2015, 5:37 PM

Hi Noel. Next door is tied up. Last chance to get this done.

14 Apr 2015, 11:24 AM

Ray White

7th April, 2015

Ray White Bondi Junction
22 Spring Street
Bondi Junction NSW 2022
T 02 8385 1100
F 02 8385 1189

Ray White Coogee
100 Coogee Bay Road
Coogee NSW 2034
T 02 9315 6666
F 02 9315 2946
sales@raywhitebj.com.au
raywhitebj.com.au

Dear Elia, Andrew,

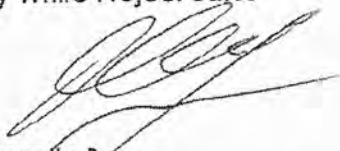
Re: **32 Spring Street, Bondi Junction NSW 2022**

Following the meeting with yourselves and my colleague Mr Robert Carrabs, we believe that lot 2/32 Spring Street can be purchased in the vicinity of \$950,000 - \$1,000,000 through Ray White Bondi Junction. This strata lot has 52% of unit entitlements and gives majority voting.

In relation to the other strata lot (lot 1) we are still communicating with the owner to establish a purchase price. Hopefully we will be in contact soon with some good news.

If you require any further information, please do not hesitate to contact the undersigned on 0425 343 406.

Yours faithfully,
Ray White Project Sales



Marcello Bo
PROJECT SALES MANAGER

15 April 2015

Mercury 21 Pty Ltd & Estate of The Late Peter Murphy
Mr Elia Leis
109-119 Oxford St
Bondi Junction NSW 2022

Dear Elia,

**RE: PROPOSED ACQUISITION OF 2 STRATA LOTS 32 SPRING STREET ALSO
KNOWN AS LOT 1 + 2 IN SP32186**

We refer to the subject matter and as per your request we hereby submit the following appraisal of market value for your consideration:

The property is located on the northern side of Spring St Bondi Junction and comprises of a two level strata building with a ground level shop front of approx. 92sqm and a first floor commercial office of approx. 80 sqm.

Based on comparable sales and rental evidence in the area in our opinion the following market values would apply to the property as follows:

Lot 1 Dental Surgery

- Commercial (upstairs owner/occupier)
- Unit entitlement 48%
- Internal area = 80sqm approx.
- Rental opinion approximately \$450/psqm per annum gross plus gst
- Expected rental per annum = \$36,000
- Expected yield about 6% net
- Sales Opinion \$600 000

Lot 2 Retail Shop

- Retail Ground Floor
- Unit entitlement 52%
- Internal area approx. 92sqm
- Rental opinion \$600/psqm per annum
- Expected rental per annum \$55 200 p.a gross plus gst
- Expected yield about 6% net
- Sales Opinion \$920 000

Total combined sales opinion of 32 Spring Street = \$1,520,000



We would be pleased to assist you with your acquisition and if you require any further information please do not hesitate to call or email me.

Yours faithfully

RICHARDSON & WRENCH COMMERCIAL EASTERN SUBURBS

A handwritten signature in black ink, appearing to read 'V. Negrine'.

VICTOR NEGRINE

Director Commercial Sales & Leasing

Ray White

17th April, 2015

Ray White Bondi Junction
22 Spring Street
Bondi Junction NSW 2022
T 02 6333 1100
F 02 6333 1183

Ray White Cooee
190 Cooee Bay Road
Cooee NSW 2024
T 02 6315 0068
F 02 6315 2048
sales@raywhitebj.com.au
raywhitebj.com.au

Dear Elia, Andrew,

Re: 1/32 Spring Street, Bondi Junction NSW 2022

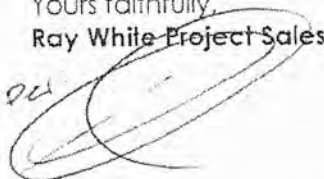
Following our meeting at Bondi Espresso Bar on Spring Street with Mr Noel Elmowy we confirm, as per your instructions, that we have submitted an offer to him to purchase the above property at \$1.5 Million plus paying for his relocation costs.

This is somewhat approximately 50% in excess of market value and is also well above the price of the adjoining lot below.

We look forward to advising you of a favourable response shortly.

If you require any further information, please do not hesitate to contact the undersigned on 0425 343 406.

Yours faithfully,
Ray White Project Sales



Marcello Bo
PROJECT SALES MANAGER

Ray White®

20 April 2015

& Legal
Level 1, 376-382 New South Head Rd
Double Bay NSW 2028

Ray White Bondi Junction
22 Spring Street
Bondi Junction NSW 2022
T 02 8383 1100
F 02 8383 1183

Ray White Coogee
190 Coogee Bay Road
Coogee NSW 2034
T 02 9315 6666
F 02 9665 8946
sales@raywhitebj.com.au
raywhitebj.com.au

Dear John,

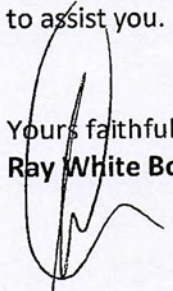
Your Client: Mercury 21 Pty Ltd
Ppty: Ground Floor 32 Spring St Bondi Junction

We write to confirm negotiation of the sale of the abovementioned property for the sum of \$1,025,000.00

We enclose a copy of sales advice for your information.

Should you require any further information, please contact the writer who will be pleased to assist you.

Yours faithfully,
Ray White Bondi Junction Commercial



Robert Carrabs
Licensed Real Estate Agent

p. 8383 1100
m. 0418 441 455
e. robert@raywhitebj.com.au

Sales Advice Note

Property: Ground Floor 32 Spring St Bondi Junction
Contract Price: \$1,025,000.00
Date: 20 April 2015

Vendor: **Name:** **G J & P Winston & P A Winston**
Address: PO Box 107
 Waverley NSW 2024

Vendor's Solicitor **Name:** M Jassy Lawyers
Address: PO Box 2006
 BONDI JUNCTION NSW 2022

Phone: 02 9387 1622

Fax: 02 9387 1655

Refer To: Michael Jassy Email: mjassy@bigpond.net.au

Purchaser: **Name:** **Mercury 21 Pty Ltd**
Address: W1107/310-330 Oxford St
 BONDI JUNCTION NSW 2022

Purchaser's Solicitor **Name:** **& Legal**
Address: Level 1, 376-382 New South Head Rd
 DOUBLE BAY NSW 2028

Phone: 9328 2944

Fax

Refer To: John Denes Email:

Special Conditions:

- 1) 2 year Option Contract
 - 2) \$25,000 Non Refundable Option Fee
-

Email Transmission – attached file

Michael Jassy and Associates Solicitors Attorneys and Conveyancers

Address:	Level 5, Suite 508 1 Newland Street BONDI JUNCTION NSW 2022	Address for Post:	Michael Jassy & Associates PO Box 2006 BONDI JUNCTION NSW 1355
		Telephone No.:	(02) 9387 1622
		Facsimile No.:	(02) 9387 1655
		Email address:	mjassy@mjassylawyers.com.au

Date: 4 May 2015

Our Reference: 15MJ2328; GF

To: **& Legal
John Denes**

Email Address: info@andlegal.com.au

Number of pages (incl.
this page): - 1 -

TEXT

Dear John,

RE: **Geoffrey J Winston, Alice Winston and Philippa Alexis Winston proposed
SALE**

Premises: **Ground Floor, 2/32 Spring Street, BONDI JUNCTION NSW 2022
Lot – 2 in Strata Plan - 32186**

I refer to recent communications between us.

Unfortunately I have been instructed to prepare a Contract For Sale for the sale of the property to the adjoining owner in the Strata Plan and not to your client.

I have also informed the agent accordingly.

Yours sincerely,

Michael Jassy & Associates

ABN: 11 827 294 692

Michael Jassy

Ray White Projects

22 Spring Street
Bondi Junction NSW 2022

T 02 8383 1111

F 02 8383 1184

sales@raywhitebj.com.au

raywhiteprojectsales.com.au

12 May, 2015

To whom it may concern,

Dear Sir/Madam

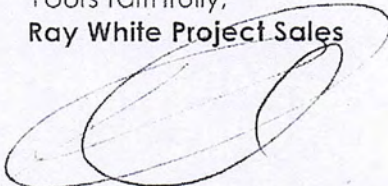
Re: 1/32 Spring Street, Bondi Junction NSW 2022

We write to advise that several offers have been put forward to the owner of the property Mr Noel Elmowy in relation to purchasing the property over the last three months.

After several meetings it appears that Mr Elmowy is not interested in selling the property and is not prepared to engage in any further communications with us. We have explained that the adjoining amalgamated site will proceed to development application stage immediately.

If you require any further information, please do not hesitate to contact the undersigned on 0425 343 406.

Yours faithfully,
Ray White Project Sales



Marcello Bo
PROJECT SALES MANAGER

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Friday, 19 June 2015 10:47 AM
To: noel@[REDACTED]
Subject: 32 Spring Street, Bondi Junction

Hi Noel,

Further to our meeting in the coffee shop at Spring St a few months ago, and your various discussions thereafter with Marcello from Ray White Bondi Junction regarding the possible sale of 2/32 Spring Street, he has given me your email address so that we can communicate directly. I hope this is ok.

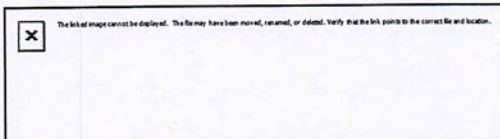
When we last spoke you had indicated some interest in selling [REDACTED] were in the middle of a divorce and hence selling [REDACTED] [REDACTED] [REDACTED] [REDACTED]. You indicated that you needed to get this done first, and suggested we speak after.

Since then Marcello has mentioned you have been busy with the dental practice and have offered very little return communication. We note that you have now purchased the downstairs lot at no.1/32 Spring Street. Congratulations.

Happy to discuss further if you are still interested in selling. Look forward to your reply.

Kind Regards
ELIA LEIS

m 0411 50 70 72
e eleis@bigpond.com
w www.stargateproperty.com.au



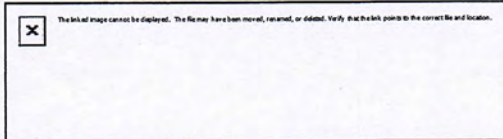
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eleis@bigpond.com

From: andrew starr
Sent: Friday, 19 June 2015 10:59 AM
To: elia leis
Subject: FW: Oxford St pre-DA - Isolation of sites
Attachments: logo.JPG; image001.jpg

ANDREW STARR

m 0412 662 120
e mrstargate@bigpond.com
w www.stargateproperty.com.au



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From: eleis@bigpond.com [mailto:eleis@bigpond.com]
Sent: Friday, 9 May 2014 9:20 AM
To: Andrew Starr
Subject: Fw: Oxford St pre-DA - Isolation of sites

Kind Regards
ELIA LEIS

m 0411 50 70 72
e eleis@bigpond.com
w www.stargateproperty.com.au

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Tuesday, 23 June 2015 4:08 PM
To: noel@[REDACTED]
Subject: Re: 32 Spring Street, Bondi Junction

Hi Noel,

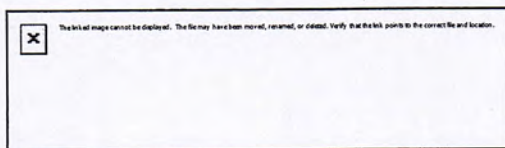
Further to my email last week I have just tried ringing your mobile, but there was no answer.

Please contact me at your earliest convenience if you wish to discuss further the sale of the above property. As you are aware we are well progressed with some architectural concepts and will need to know whether you wish to be included in the amalgamation of the adjoining development site.

Either way please let me know.

Kind Regards
ELIA LEIS

m 0411 50 70 72
e eleis@bigpond.com
w www.stargateproperty.com.au



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

From: eleis@bigpond.com
To: noel@[REDACTED]
Sent: Friday, June 19, 2015 10:47 AM
Subject: 32 Spring Street, Bondi Junction

Hi Noel,

Further to our meeting in the coffee shop at Spring St a few months ago, and your various discussions thereafter with Marcello from Ray White Bondi Junction regarding the possible sale of 2/32 Spring Street, he has given me your email address so that we can communicate directly. I hope this is ok.

When we last spoke you had indicated some interest in selling [REDACTED]
[REDACTED] Estate Agent. You indicated that you needed to get this done first, and suggested we speak after.

Since then Marcello has mentioned you have been busy with the dental practice and have offered very little return communication. We note that you have now purchased the downstairs lot at no.1/32 Spring Street. Congratulations.

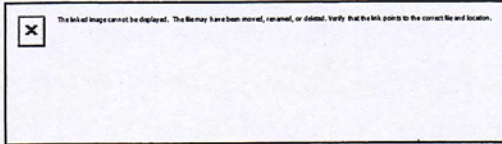
Happy to discuss further if you are still interested in selling. Look forward to your reply.

Kind Regards
ELIA LEIS

m 0411 50 70 72

e eleis@bigpond.com

w www.stargateproperty.com.au



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eleis@bigpond.com

From: John Denes
Sent: Friday, 26 June 2015 1:03 PM
To: eleis@bigpond.com
Subject: THE COMPANY'S OPTION TO PURCHASE FROM WINSTON 90942
Attachments: 00E874092468481A9408AEAF4C039822.jpg



Our Ref: JD:90942
Your Ref: Andrew Starr

26 June 2015

Mr A Starr & Mr E Leis
Mercury 21 Pty Ltd
PO Box 733
WAVERLEY NSW 2024

EMAIL ADDRESS: BY EMAIL

Dear Andrew/Elia

**THE COMPANY'S OPTION TO PURCHASE FROM WINSTON
PROPERTY: GROUND FLOOR/32 SPRING STREET, BONDI JUNCTION**

I refer to our telephone conversation.

I spoke to Michael Jassy. He advised that he was expecting to receive the contract signed by the purchaser before 1 PM today and he had instructions to exchange contracts.

Please let me know if I should contact Michael again today and enquire whether contract have been exchanged.

Yours faithfully,
& Legal

John Denes

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Our Ref: JD:90942
Your Ref: Andrew Starr

26 June 2015

Mr A Starr & Mr E Leis
Mercury 21 Pty Ltd
PO Box 733
WAVERLEY NSW 2024

EMAIL ADDRESS:

BY EMAIL

Dear Sirs

**THE COMPANY'S OPTION TO PURCHASE FROM WINSTON
PROPERTY: GROUND FLOOR/32 SPRING STREET, BONDI JUNCTION**

We refer to the above matter.

We enclose sales advice issued by Ray White dated 20 April 2015. The sales advice confirms that the agent negotiated on behalf of the vendor the grant of a call option for a duration of 2 years at the purchase price of 1,025,000. An option fee of \$25,000 was stipulated by the agent.

On 4 May 2015 we received a letter from the vendor's solicitors a copy of which is attached. The vendor apparently changed his mind and decided to sell the property to the owner of the adjoining premises.

We telephoned the vendor's solicitor on 23 June 2015 and he advised us that contracts for the sale of the property were not yet exchanged. He confirmed that the sale of the property was proceeding and that his client decided against selling the property to you because of the extended time period under the proposed call option.

We telephoned the vendor's solicitor today. He advised that he was expecting to receive the contract signed by the purchaser and contracts would be exchanged today.

Please confirm if you require any further information or assistance in this matter.

Yours faithfully,

& Legal

John Denes

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00113117

From: eleis@bigpond.com
Sent: Thursday, 2 July 2015 12:09 PM
To: Andrew Starr
Cc: Elia Leis
Subject: 32 Spring St, BJ

Just spoke to Noel.

Said he has had alot going on and apologised for not returning my calls and emails.

I congratulated him on his acquisition last friday of the downstairs lot and said that it was good that he has control over the whole property.

I asked if he wants to pursue discussions about selling any further.

He said no and that he had [REDACTED] wanted to now just focus on his business and thanked me for meeting with him previously and for my offer.

He said he had no problem with us progressing development next door, only he wanted to ensure his property was not going to be affected structurally as it was elsewhere on some other occassion. I assured him that a delapidation report would be done and we would structurally ensure the integrity of his property during construction.

I advised him that our proposed building was designed by the architect to "slot in" his property if he wishes to come on board the amalgamation, but this decision would have to be made soon given the progress of our proposal, or alternatively he could develop his property on its own at later stage, which he may do.

[REDACTED]
[REDACTED]
[REDACTED]

I asked for a letter of support and he said in theory no problem but has not seen any plans. I said we would catch up next week and I would show him our proposal. We both laughed about how having 80/90 units next door may be good for his business (dental). He also acknowledged it was a dense commercial (and residential) area and he would expect something to happen next door.

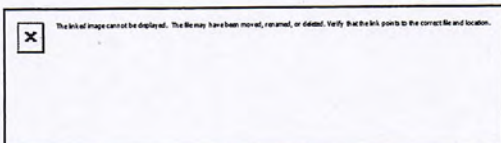
Kind Regards

ELIA LEIS

m 0411 50 70 72

e eleis@bigpond.com

w www.stargateproperty.com.au



To: Noel Elmowy

Brett COX

ACCRU FELSE...

BC



Thanks

So will you be using Frank
Back?

Yes

Ok will get ball rolling.....
Hope my plane dosnt
crash 🙏

Thu, 30 Jun 5:27 pm



To: Noel Elmowy

Fri, 10 Jun 11:14 am

Hi Noel,
You ok for 1 o'clock
today? Regards Elia

Fri, 10 Jun 1:04 pm

[REDACTED]
[REDACTED]
[REDACTED]

Ok no worries.....
Can do next week if you
like or later this afternoon
if your free. I'm in my office
in Oxford st anyway. Just
need 5 min notice.

To: Noel Elmowy

Hi Noel,

John Denes spoke to
Frank Back.....

There was a discussion of
a leaseback to you, which
is not required as
settlement is not due to
occur until 30 June 2017,
so you will be occupying
the property until then as
we discussed.

Also I thought we were
discussing an option deal
like 34 next door, so that I
can get a DA approval
before settlement occurs

To: Noel Elmowy

In anycase this will be a condition of my finance. It would be difficult otherwise to get finance approval without DA at such a premium price given that we are paying above mkt value.

If you are ok with the above I am happy to meet you on your side of half way at \$3.25m as a final price, but only subject to DA and settlement 30 June 2017. Doing the best I can!

Kind Regards,
Elia

To: Noel Elmowy

such a premium price
given that we are paying
above mkt value.

If you are ok with the
above I am happy to meet
you on your side of half
way at \$3.25m as a final
price, but only subject to
DA and settlement 30 June
2017. Doing the best I can!

Kind Regards,
Elia

Thnx Elia. Will run it thru
today.

Ok thanks Noel

To: Noel Elmowy

Tuesday 1 pm in oxford st
cafe somewhere.

Ok

How about downstairs in
our cafe at 310-330 Oxford
St. Rear lane (Hegarty
Lane) next to Gym

Done

Cu then

Enjoy the long weekend

Thu, 30 Jun 11:02 am

Brett COX

ACCRU FALSE...

BC



To: Noel Elmowy

Load Earlier Messages

Text Message

Wed, 8 Jun 10:58 am

Happy also to meet
without the entourage if
you prefer.

No issues

Don't leave it too long
please if you decide to
jump on board.

Wed, 8 Jun 3:50 pm

Rollovers | Australian
Taxation Office

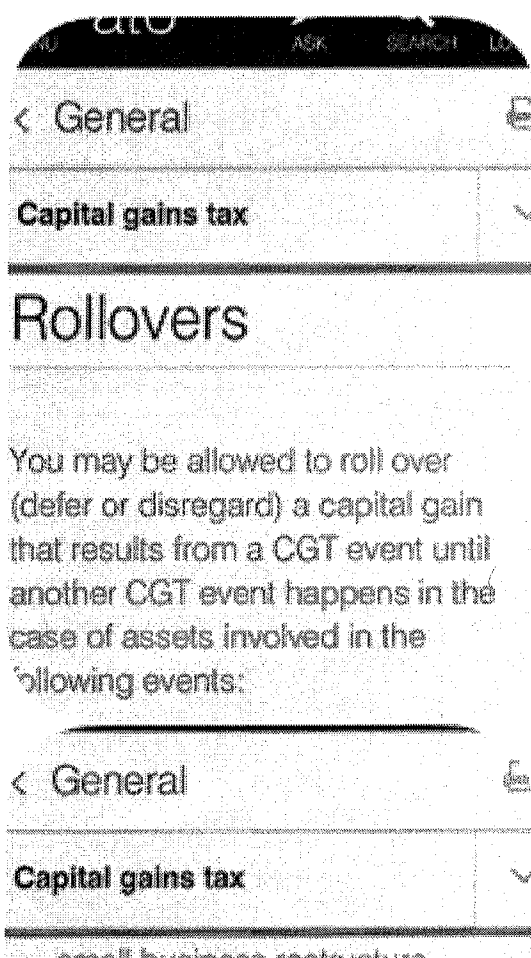
<https://www.ato.gov.au/>

To: Noel Elmowy

Wed, 8 Jun 3:50 pm

Rollovers | Australian Taxation Office

<https://www.ato.gov.au/General/capital-gains-tax/cgt-exemptions,-rollovers-and-concessions/rollovers/>



To: Noel Elmowy

another CGT event happens in the case of assets involved in the following events:

< General

Capital gains tax

- > small business restructure rollover
- > marriage or relationship breakdown
- > loss, destruction or compulsory acquisition
- > mining lease
- > scrip for scrip
- > demergers
- > other replacement asset

You should look into this. Applies to sale of business assets (property as well) for "small businesses" with turnover less than \$2m (I assume this applies).
Regards Elia....

Thnx for the links

To: Noel Elmowy

Text Message
Wed, 8 Jun 10:53 am

Hi Noel.
Just sent you through
copy of survey. Yours is
114sqm confirmed. Happy
to discuss further.....
Regards Elia

Thnx

Happy also to meet
without the entourage if
you prefer.

No issues

eleis@bigpond.com

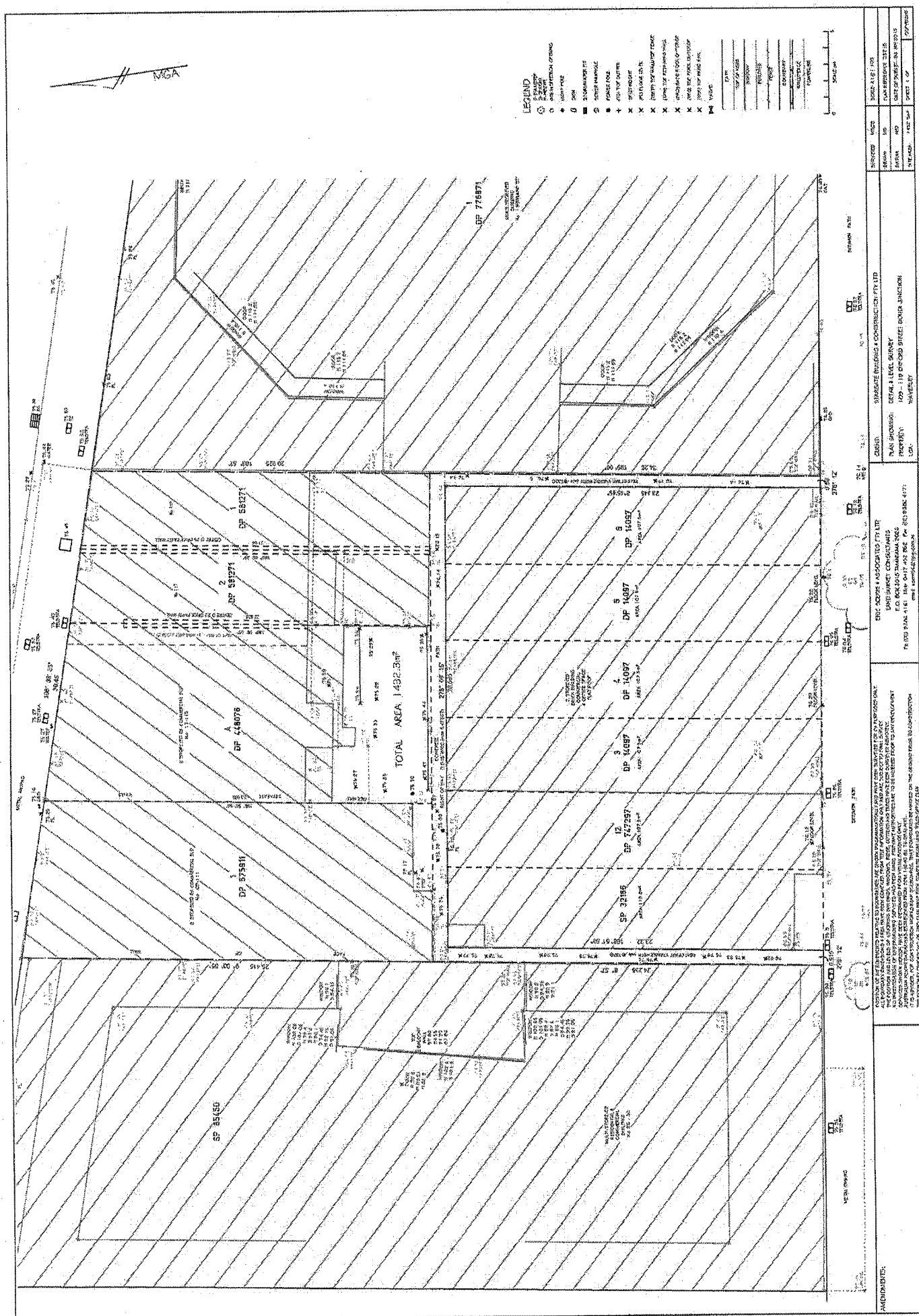
From: eleis@bigpond.com
Sent: Wednesday, 8 June 2016 10:38 AM
To: 'Noel Elmowy'
Subject: Re: Oxford/Spring - Survey
Attachments: 2371A.pdf

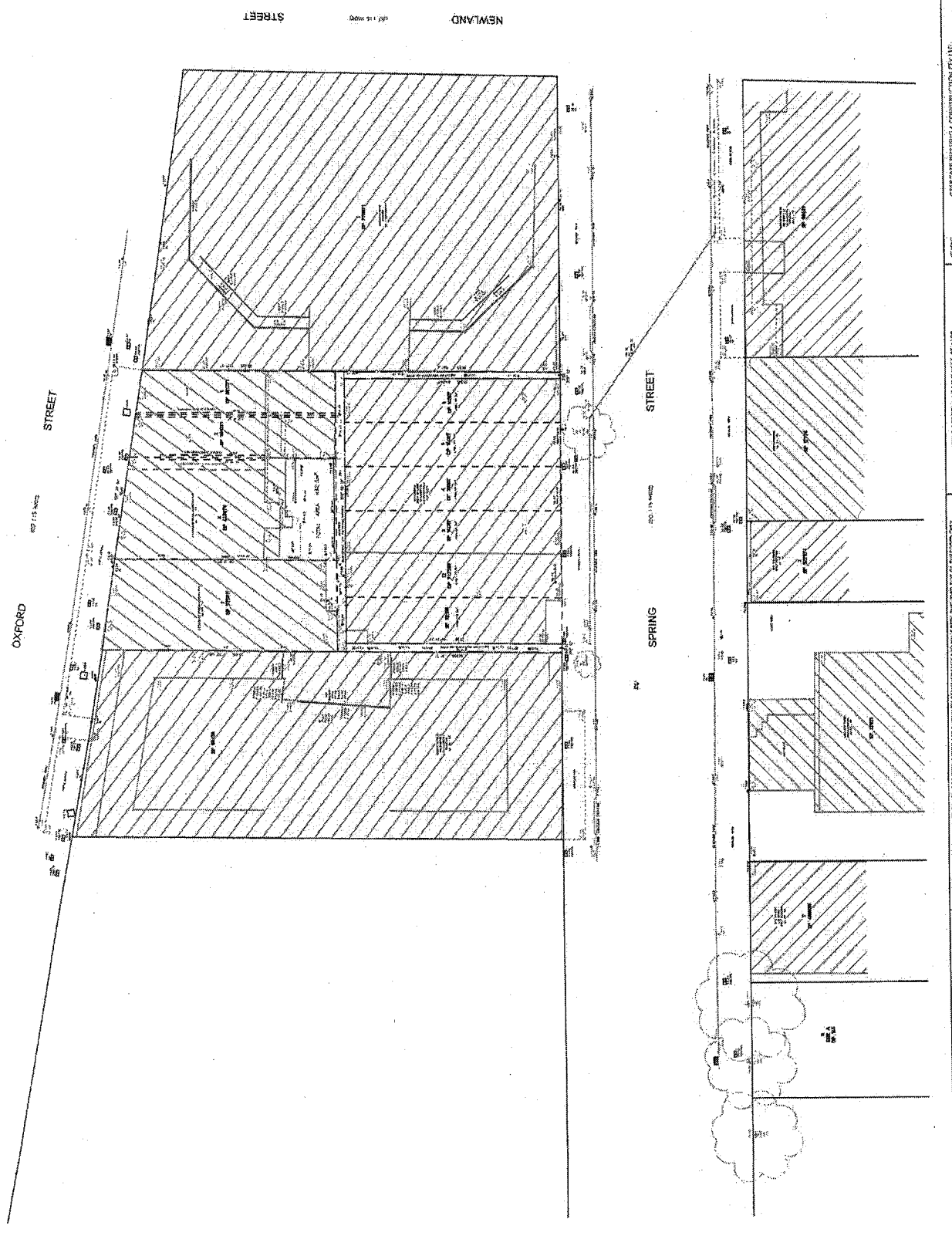
Hi Noel,

Survey as promised, yours is 114 sqm.....

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407
www.stargateproperty.com.au



[illegible]

He didn't seem happy with this figure (\$2.75M) and said he would think about it and keep the lines of communication open and speak to his accountant on the 15th.

Regards,

Elia Leis

Director

Stargate Property Group

0411 507 072

02 8668 5407

www.stargateproperty.com.au

STAR(*)GATE
PROPERTY

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Tuesday, 7 June 2016 1:47 PM
To: 'Igal'
Cc: eleis@bigpond.com
Subject: Noel Elmowy

Had a meeting in coffee shop today at 12pm with Marcello Bo (real estate agent), Noel Elmowy (owner 32 Spring), Phil Elmowy (real estate agent/brother)

[REDACTED]

We discussed different sale/purchase scenarios in which he may move and continue his business from another premises and sell the property, or locum/partner up somewhere else for 2 years while we build and move into a newly fitted dental surgery, or sell outright and retire and live off the money invested, or simply stay and collect money from the rental downstairs and continue working upstairs. I suggested he could also roll his property into the development as a joint venture and get stock/profit share back in the completed development.

We discussed that the design of our building is flexible to accommodate him as an add-on (via a s96 modification) and has been designed with the view that he changes his mind and decides to sell. Alternatively, we discussed that he could re-develop his property on its own and we would sell him the right of way down the side. We also discussed our atrium/courtyard design so that he could open his retail and get windows into the middle void if he were to redevelop himself. He acknowledged he had been to Council and seen the design and that it was good that we had kept him in mind with everything and that he liked the design.

[REDACTED]

We then discussed values and how he could make it tax effective. He said the property was owned in a superannuation fund. I said I am open to the idea of him minimising his CGT position by virtue of rollover provisions that permit an asset to be rolled into a development to get an asset at the end of the project. He said his accountant gets back on the 15th and he would discuss this with him.

He again highlighted that he was unsure if he wants to simply go, sell, or stay and continue, or relocate, or get a new dental surgery back in new development and would let me know after he thinks a bit more.

He then indicated that the simplest way would just be to sell without any complexities. So we discussed values on this basis and the agents did a quick calculation based on 6% yield on existing property rental to arrive at a value of around \$2M. I indicated we could pay development values (based on 110sqm of site area at 5:1 = 550sqm GFA) approx. \$5,000 (\$2.75M) which was at the upper end of what is selling in BJ, considerably more than the rate per sqm for acquisition of next door and somewhat 40% more than his brother's (the agent) calculation of \$2M on a stand-alone basis. We discussed that we would have to confirm the size of his property and that I would email him the survey.

To: Noel Elmowy

Hi Noel,
I am now back in town.
John Denes (solicitor) has
been in touch with Frank
Back and was advised he
has not yet received
instructions regarding 32
Spring. Any progress with
this? Regards Elia

Tue, 26 Jul 4:22 pm

Hi Noel,
Just wanted to make sure
you received my email
yesterday regarding 32
Spring? Elia

Will chk

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Monday, 25 July 2016 3:19 PM
To: 'Noel Elmowy'
Cc: 'John Denes'
Subject: 32 Spring St, Bondi Junction

Hi Noel,

Further to our discussion earlier today please find below the following agreed terms:

Purchase Price	\$3,350,000 (Lots 1 + 2 in SP 32186)
Call Option Fee	1% (\$33,500) non-refundable/forming part of the deposit
Option Term	12 months
Settlement	6 weeks
Deposit	10% (less option fee)

Can you please advise Frank Back to liaise with John Denes for the purpose of preparing formal documentation.

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407
www.stargateproperty.com.au

STAR(*)GATE
PROPERTY

eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Thursday, 14 July 2016 11:13 AM
To: Elia Leis
Subject: RE: 32 Spring St, BJ

Hi Elia

I spoke to Frank Back and he told me that he spoke to Noel Elmowy.

Noel instructed Frank that the sale would proceed at a purchase price of \$3,350,000. I did not discuss the price with Frank.

Frank told me that he did not receive any instructions from Noel regarding the transaction proceeding by way of call option. Frank said that he assumes that the sale will be an outright sale documented as a contract.

Noel instructed Frank that there is to be a lease back of the surgery to Noel's service company for 12 months at a rental of \$3000 per calendar month.

The demolition clause in the lease is to become effective after June 2017.

Frank is not aware if either of the lots is occupied by another tenant.

Regards,

John

John Denes
Solicitor

Level 1, 376-382 New South Head Rd, Double Bay 2028
M: 0414 426 606 T: +61 (0)2 9328 2944 F: +61 (0)2 9328 7324 <http://www.andlegal.com.au>

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

From: Elia Leis [mailto:eleis@bigpond.com]
Sent: Wednesday, 13 July 2016 1:54 PM

To: John Denes
Cc: Igal Leis
Subject: 32 Spring St, BJ

Hi John,

Could you please liaise with Frank Back regarding purchase of both strata lots at this property. I have agreed with Noel Elmowy who owns both lots. I am happy with any split whatever is tax effective for the vendor. The purchase/sale of lots must be interdependent. No re-leasing, confirmation of tenancies and demolition clauses.

Negotiations are at \$3.1m with 1 yr option.....please remain silent on price and terms at this stage, as this is still a moving target. You have not been advised of terms, other than to commence preparation of documents to facilitate transaction.

Please ring Frank for confirmation only at this stage that you will be preparing option and contract agreements at our cost.

Kind Regards,
Elia Leis

--

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<https://console.mailguard.com.au/ras/1OPtoANRvr/4lsWvq892aJvxFsflL664d/0.011>

eleis@bigpond.com

From: Elia Leis <eleis@bigpond.com>
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Cc: Igal Leis
Subject: 32 Spring St, BJ

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Negotiations are at \$3.1m with 1 yr option.....please remain silent on price and terms at this stage, as this is still a moving target. You have not been advised of terms, other than to commence preparation of documents to facilitate transaction.

Please ring Frank for confirmation only at this stage that you will be preparing option and contract agreements at our cost.

Kind Regards,
Elia Leis=

To: Noel Elmowy

Hi Noel,

How do you want the values split between lot 1 and lot 2 @ 32 Spring st for the contracts. Probably need accountant to advise.

We will also put in an interdependency clause so that one cannot be bought/sold without the other.

Please advise. Or would you prefer solicitor contact solic/accountant direct?
Regards, Elia

To: Noel Elmowy

We will also put in an interdependency clause so that one cannot be bought/sold without the other.

Please advise. Or would you prefer solicitor contact solic/accountant direct?
Regards, Elia

Tue, 12 Jul 7:25 pm

Yes Elia. Will talk to Frank Back tomorrow and confirm details. In particular revisit the lease.

Ok tx

eleis@bigpond.com

From: Elia Leis <eleis@bigpond.com>
Sent: Monday, 29 August 2016 10:00 PM
To: John Denes
Subject: Re: Scan Data from FX-9E4F96

It's fine.....

Kind Regards,
Elia Leis

> On 29 Aug 2016, at 8:41 pm, John Denes <jdenes@andlegal.com.au> wrote:

>

>

> Hi Elia

>

> Please confirm that the attached draft email to Frank Back is satisfactory.

>

> Regards

>

> -----

> John Denes

> Solicitor

>

>

> Level 1, 376-382 New South Head Rd, Double Bay 2028

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>

>

> -----Original Message-----

> From: xerox

> Sent: Monday, 29 August 2016 8:36 PM

> To: John Denes

> Subject: Scan Data from FX-9E4F96

>

>

>

> Number of Images: 1

eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Monday, 29 August 2016 8:41 PM
To: Mr Elia Leis (Purchaser)
Subject: FW: Scan Data from FX-9E4F96
Attachments: img-829203558-0001.pdf

Hi Elia

Please confirm that the attached draft email to Frank Back is satisfactory.

Regards

John Denes
Solicitor

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

From: xerox
Sent: Monday, 29 August 2016 8:36 PM
To: John Denes
Subject: Scan Data from FX-9E4F96

Number of Images: 1
Attachment File Type: PDF

Device Name: DocuCentre-IV C3370
Device Location: PRINTER2

--

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John Denes

To: fback@bsv.com.au
Subject: Leis Purchase from Elmowy

Dear Frank

The terms and conditions referred to in the terms sheet attached to your email dated 25 August 2016 are satisfactory.

The proposed grantee under the deed of call option is Mercury 21 Pty Limited ACN 168 508 763.

Please provide a draft deed of call option annexing a contract for sale for the properties.

The draft deed is to provide that if the premises become vacant prior to the call option exercise date, the premises may be relet for a term that does not exceed the unexpired period before the call option expiry date. The lease is to contain an 84 day demolition clause and a Section 16 (3) Certificate is to be obtained by the grantor from the lessee's legal representative.

In addition to what is provided under the heading "Transaction Structure" paragraph iv) the grantee is to be at liberty to exercise the call option at any time after the expiry of 42 days from the date of the deed.

Please provide copies of the lease for the dental surgery and any other lease in place for the remaining part of the properties.

Regards

John Denes
Solicitor



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eleis@bigpond.com

From: Elia Leis <eleis@bigpond.com>
Sent: Thursday, 25 August 2016 8:34 PM
To: John Denes
Cc: Igal Leis
Subject: Re: NESF CUSTODIANS PTY LTD SALE 27855

Yes the terms are generally fine.....

Mercury21 Pty Ltd is the Grantee

Call Option may also be exercised at anytime after 42 days, (in addition to the suggested earlier of DA Consent or 31 Aug 2017).

Are there any other leases in existence, in addition to the intended lease to the grantor/vendor dentist? Do they have demo clauses?

Demo clause may also be activated at the time of exercise of option.

Kind Regards,
Elia Leis

On 25 Aug 2016, at 3:07 pm, John Denes <jdenes@andlegal.com.au> wrote:

John Denes
Solicitor

<image001.jpg>

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From: Frank Back [<mailto:FBack@bsv.com.au>]
Sent: Thursday, 25 August 2016 3:07 PM
To: John Denes
Subject: NESF CUSTODIANS PTY LTD SALE 27855

NESF CUSTODIANS PTY LTD SALE
32 Spring Street, Bondi Junction

John,

In an effort to have the parties each acknowledge the commercial terms of the proposed sale and purchase prior to incurring the costs of the document drafting I have prepared the attached terms Sheet which (as I understand things) sets out the terms upon which my clients would grant a Call Option to your client.

Can you let me know if those terms are acceptable.

Please note that I am forwarding the attached Terms Sheet to you at the same time as to my clients and accordingly I reserve the right to vary or amend the Terms Sheet should I have instructions to do so.

I look forward to hearing from you.

Regards

Frank Back | Partner

Back Schwartz Vaughan

Level 1, 156 Edgecliff Road, Woollahra NSW 2025

T: +61 (02) 8383-3777 | F: +61 (02) 8383-3706

E: fback@bsv.com.au | W: www.bsv.com.au

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<Terms Sheet_25Aug2016.pdf>

eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Thursday, 25 August 2016 3:08 PM
To: eleis@bigpond.com
Subject: FW: NESF CUSTODIANS PTY LTD SALE 27855
Attachments: Terms Sheet_25Aug2016.pdf

John Denes
Solicitor



Level 1, 376-382 New South Head Rd, Double Bay 2028
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I look forward to hearing from you.

Regards

Frank Back | Partner
Back Schwartz Vaughan
Level 1, 156 Edgecliff Road, Woollahra NSW 2025

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Please note that I am forwarding the attached Terms Sheet to you at the same time as to my clients and accordingly I reserve the right to vary or amend the Terms Sheet should I have instructions to do so.

I look forward to hearing from you.

Regards

Frank Back | Partner
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E: fback@bsv.com.au | W: www.bsv.com.au

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<http://www.mailguard.com.au>

**Suites 1 and 2
32 Spring Street, Bondi Junction**

25th August 2016

The sale is subject to exchange of contracts.

No contractual or other relationship will exist between the parties until documents are exchanged except that the parties are bound from the date of this term sheet in relation to the due diligence period and the confidentiality provision specified herein.

Property	:	Suites 1 and 2, 32 Spring Street, Bondi Junction
Ownership	:	Suite 1: Nepuba Pty Ltd ACN 002 421 776 as trustee for the Noel Elmowy Superannuation Fund Suite 2: NESF Custodian Pty Ltd CAN 605 734 754 as bare trustee for the Noel Elmowy Superannuation Fund
Title Reference	:	The property comprises the land in Certificates of Title Folio Identifiers 1 and 2/SP32186 and being Lots 1 and 2 in Strata Plan 32186.
Purchaser	:	Elia (or nominated entity)
Sale Price	:	\$3,350,000. Price is fixed and not subject to yield adjustment mechanism.
Transaction Structure	:	i) Call Option to be granted by the Vendor to the Purchaser; ii) Call Option Fee of \$10.00 iii) Security Deposit of \$33,500 (equivalent to 1% of the Price) payable to the Vendor on grant of Put and Call Option; iv) Call Option to be exercised on the earlier of A 31 st August 2017; and B 10 business days after the grant of the Purchaser's application to develop the Property on terms acceptable to the Purchaser acting reasonably

		<p>Post Grant of Call Option</p> <ul style="list-style-type: none"> v) If the Purchaser fails to neglects to exercise the Call Option then the Security Deposit is forfeited to the Vendor; vi) the Vendor must consent to the Purchaser making any development application prior to completion (DA) and will, at the cost of the Purchaser, provide reasonable assistance to the Purchaser in making and progressing the DA; vii) the ownership of the DA, any other application and all plans, drawings and other documents to the extent of the Purchaser's ownership of that application and all plans, drawings and other documents and approval (if any approval is obtained) shall revert to the Vendor in the event of the Purchaser not proceeding with the purchase for any reason. viii) The Purchaser will pay its own costs in preparing and making any application. ix) The Vendor to provide to the Purchaser on request written authority to uplift or examine statutory records in respect of the property. x) The Purchaser will keep the Vendor informed of the outcome of any discussions with the Waverley Council; xi) the Purchaser will on request from the Vendor, provide the Vendor with minutes of any meetings and make available to the Vendor at the cost of the Vendor copies of any records uplifted or examined by the Purchaser.
Deposit	:	The Purchaser will pay a deposit of \$335,000 (10 % of the Price) on exchange (exercise of the Call Option). The Security Deposit is credited to the Deposit payable on exercise of the Call Option;
Completion		Completion shall take place 56 days after the exercise of the Call Option.
GST		The Price is exclusive of GST. GST is payable by the Purchaser in addition to the Price. The Vendor believes that the sale of the Property will be GST free as the supply of a going concern.

Possession		<p>The Purchaser will acquire the Property subject to the existing tenancies. In respect of the lease of the dental surgery, the terms of that lease are as follows:</p> <ul style="list-style-type: none"> a) term expires 31st March 2018 with no option term; b) rent is \$3,000 per month plus statutory outgoings and GST; c) bond is \$NIL; d) lease contains an 84 day demolition clause; and e) tenant has early termination rights on 28 days notice.
Stamp Duty	:	Stamp duty will be payable by the purchaser on the Sale Price.
Costs		The Purchaser to contribute an amount of \$5,000 plus GST to the costs of the Vendor in relation to the grant of the Call Option payable at the time the Call Option is granted.

To: Noel Elmowy

FYI

Still nothing from Frank Back. Won't take my solicitors calls or return calls. Regards Elia

Ok

Wed, 24 Aug 10:10 am

Hi Noel,

[REDACTED]

Not getting a great deal of communication from Frank Back. Do you know the status? Is it progressing? It is taking a very long time....regards Elia

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Wednesday, 10 August 2016 11:28 AM
To: 'John Denes'
Subject: 32 Spring St, BJ

Forgot to ask you about this....

You mentioned Frank Back has prepared a contract, can he email this to us.

Maybe we will do just a sale subject to DA, with 6 months settlement thereafter, just to keep it simple.

Regards,

Elia Leis

Director

Stargate Property Group

0411 507 072

02 8668 5407

www.stargateproperty.com.au

STAR(*)GATE
PROPERTY

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Monday, 8 August 2016 5:06 PM
To: 'John Denes'
Subject: Frank Back

12 months is fine.....

Regards,

Elia Leis

Director

Stargate Property Group

0411 507 072

02 8668 5407

www.stargateproperty.com.au

STAR(★)GATE
PROPERTY

eleis@bigpond.com

From: eleis@bigpond.com
Sent: Monday, 8 August 2016 10:29 AM
To: 'John Denes'
Cc: 'mrstargate@bigpond.com'
Subject: 32 Spring St, BJ - Frank Back

What is the status?
Is he preparing contract/option agreement? Or are you?
How do we speed it up?

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407
www.stargateproperty.com.au

STAR(★)GATE
PROPERTY

To: Noel Elmowy

Will chk

Mon, 1 Aug 10:18 am

Hi Noel,
Are we proceeding with
sale of your property. Have
had no response from
Frank Back. Please advise
either way. Thanks Elia

Wed, 3 Aug 1:32 pm

Hi Noel
FYI
Still nothing from Frank
Back. Won't take my
solicitors calls or return
calls. Regards Elia

eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 27 September 2016 2:58 PM
To: eleis@bigpond.com
Subject: RE: Your Purchase from Elmoway

I called them, left a message and sent an email

John Denes
Solicitor



Level 3, 376-382 New South Head Rd, Double Bay 2028
M: 0414 426 606 T: +61 (0)2 9328 2944 F: +61 (0)2 9328 7324
<http://www.andlegal.com.au>

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From: eleis@bigpond.com [mailto:eleis@bigpond.com]
Sent: Tuesday, 27 September 2016 2:16 PM
To: John Denes
Subject: RE: Your Purchase from Elmoway

Ring them.....where is the contract?

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407
www.stargateproperty.com.au



From: John Denes [mailto:jdenes@andlegal.com.au]
Sent: Tuesday, 27 September 2016 1:54 PM

To: eleis@bigpond.com

Subject: Your Purchase from Elmowy

Dear Elia

I attach amended Deed of Call Option forwarded to Back Schwartz Vaughan.

Regards,

John Denes

Solicitor



Level 3, 376 New South Head Road, Double Bay 2028

T: +61 (0)2 9328 2944

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eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 27 September 2016 1:54 PM
To: eleis@bigpond.com
Subject: Your Purchase from Elmowy
Attachments: Deed of Call Option.pdf

Dear Elia

I attach amended Deed of Call Option forwarded to Back Schwartz Vaughan.

Regards,

John Denes
Solicitor



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eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 27 September 2016 10:37 AM
To: eleis@bigpond.com
Subject: Your Purchase from Elmowy
Attachments: Deed of Call Option.pdf

Hi Elia

I attach amended Deed of Call Option.

Please confirm that the Deed may be dispatched to Frank Back's office.

Regards,

John Denes
Solicitor



Level 3, 376 New South Head Road, Double Bay 2028
T: +61 (0)2 9328 2944
<http://www.andlegal.com.au>

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eleis@bigpond.com

From: Sean Park <SPark@andlegal.com.au>
Sent: Monday, 26 September 2016 11:31 AM
To: eleis@bigpond.com
Subject: Deed of Call Option
Attachments: Deed of Call Option.docx

Dear Elia

I attach draft deed of call option for suite 1, 32 Spring St, Bondi Junction.

Please confirm that the deed is satisfactory and I will then prepare deed of call option for suites 1 and 2 in final form for delivery to Back Schwartz Vaughan.

Regardsm

John Denes



Level 3, 376-382 New South Head Road, DOUBLE BAY 2028
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eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 20 September 2016 12:02 PM
To: eleis@bigpond.com
Subject: RE: Frank Back - Call Option/Contract ????

I called Frank's office. Frank is away for 2 weeks and the file was left with Andrew. I spoke to Andrew and told him that I was waiting for a deed of call option from Frank. Andrew has not yet looked at the file and he said he would do so and call me back. The vendor may perhaps be able to assist.

Regards

John Denes
Solicitor



Level 1, 376-382 New South Head Rd, Double Bay 2028
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From: eleis@bigpond.com [mailto:eleis@bigpond.com]
Sent: Monday, 19 September 2016 12:34 PM
To: John Denes
Subject: Frank Back - Call Option/Contract ????

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407
www.stargateproperty.com.au

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Elia Leis

From: John Denes <jdenes@andlegal.com.au>
Sent: Thursday, 15 September 2016 1:49 PM
To: Elia Leis
Subject: RE: NESF CUSTODIANS PTY LTD SALE 27855

I assume shortly, nothing is stopping him from sending it now

John Denes
Solicitor



Level 1, 376-382 New South Head Rd, Double Bay 2028
M: 0414 426 606 T: +61 (0)2 9328 2944 F: +61 (0)2 9328 7324
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From: Elia Leis [mailto:elialeis@icloud.com]
Sent: Thursday, 15 September 2016 1:46 PM
To: John Denes
Subject: Re: NESF CUSTODIANS PTY LTD SALE 27855

When do we get call option and contract?

Kind Regards,
Elia Leis

On 15 Sep 2016, at 12:24 pm, John Denes <jdenes@andlegal.com.au> wrote:

I advised Frank

John Denes
Solicitor

<image001.jpg>

Level 1, 376-382 New South Head Rd, Double Bay 2028
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From: Frank Back [mailto:FBack@bsv.com.au]
Sent: Thursday, 15 September 2016 11:23 AM
To: John Denes
Subject: NESF CUSTODIANS PTY LTD SALE 27855

NESF CUSTODIANS PTY LTD SALE

John,

I have met again with my client in relation to the terms of sale.

I attach the Terms Sheet marked up with the changes that my client has requested. I understand that there has been some discussion between our respective clients in relation to these changes.

Whilst I will send you a draft Call Option under separate cover on the assumption that the terms are agreed, I would appreciate your confirming that your client has no objection to the changes made.

Regards

Frank Back | Partner
Back Schwartz Vaughan
Level 1, 156 Edgecliff Road, Woollahra NSW 2025
T: +61 (02) 8383-3777 | F: +61 (02) 8383-3700
E: fback@bsv.com.au | W: www.bsv.com.au

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From: Elia Leis [<mailto:elialeis@icloud.com>]
Sent: Thursday, 15 September 2016 12:12 PM
To: John Denes
Subject: Re: NESF CUSTODIANS PTY LTD SALE 27855

Yes it's fine.....

Kind Regards,
Elia Leis

On 15 Sep 2016, at 11:43 am, John Denes <jdenes@andlegal.com.au> wrote:

John Denes
Solicitor

<image001.jpg>

Level 1, 376-382 New South Head Rd, Double Bay 2028

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From: Frank Back [<mailto:FBack@bsv.com.au>]
Sent: Thursday, 15 September 2016 11:23 AM
To: John Denes
Subject: NESF CUSTODIANS PTY LTD SALE 27855

NESF CUSTODIANS PTY LTD SALE

John,

I have met again with my client in relation to the terms of sale.

I attach the Terms Sheet marked up with the changes that my client has requested. I understand that there has been some discussion between our respective clients in relation to these changes.

Whilst I will send you a draft Call Option under separate cover on the assumption that the terms are agreed, I would appreciate your confirming that your client has no objection to the changes made.

Regards

Frank Back | Partner
Back Schwartz Vaughan

Level 1, 156 Edgecliff Road, Woollahra NSW 2025

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Elia Leis

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Sent: Thursday, 15 September 2016 12:24 PM
To: Elia Leis
Subject: RE: NESF CUSTODIANS PTY LTD SALE 27855

I advised Frank

John Denes
Solicitor



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From: Elia Leis [mailto:elialeis@icloud.com]
Sent: Thursday, 15 September 2016 12:12 PM
To: John Denes
Subject: Re: NESF CUSTODIANS PTY LTD SALE 27855

Yes it's fine.....

Kind Regards,
Elia Leis

On 15 Sep 2016, at 11:43 am, John Denes <jdenes@andlegal.com.au> wrote:

John Denes
Solicitor

<image001.jpg>

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Sent: Thursday, 15 September 2016 11:23 AM
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Back Schwartz Vaughan
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Elia Leis

From: John Denes <jdenes@andlegal.com.au>
Sent: Thursday, 15 September 2016 11:44 AM
To: Elia Leis (elialeis@icloud.com)
Subject: FW: NESF CUSTODIANS PTY LTD SALE 27855
Attachments: Terms Sheet_7Sep2016.pdf

John Denes
Solicitor



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**Suites 1 and 2
32 Spring Street, Bondi Junction**

~~25th August~~ 7th September 2016

The sale is subject to exchange of contracts.

No contractual or other relationship will exist between the parties until documents are exchanged except that the parties are bound from the date of this term sheet in relation to the due diligence period and the confidentiality provision specified herein.

Property	:	Suites 1 and 2, 32 Spring Street, Bondi Junction
Ownership	:	Suite 1: Nepuba Pty Ltd ACN 002 421 776 as trustee for the Noel Elmowy Superannuation Fund Suite 2: NESF Custodian Pty Ltd CAN 605 734 754 as bare trustee for the Noel Elmowy Superannuation Fund
Title Reference	:	The property comprises the land in Certificates of Title Folio Identifiers 1 and 2/SP32186 and being Lots 1 and 2 in Strata Plan 32186.
Purchaser	:	Elia (or nominated entity)
Sale Price	:	\$3,350,000. Price is fixed and not subject to yield adjustment mechanism.
Transaction Structure	:	<ul style="list-style-type: none"> i) Call Option to be granted by the Vendor to the Purchaser; ii) Call Option Fee of \$10.00 iii) Security Deposit of \$33,500 (equivalent to 1% of the Price) payable to the Vendor on grant of Put and Call Option; iv) Call Option to be exercised on the earlier of <ul style="list-style-type: none"> A 31st August 2017; and B 10 business days after the grant of the Purchaser's application to develop the Property on terms acceptable to the Purchaser acting reasonably

		<p>Post Grant of Call Option</p> <p>v) If the Purchaser fails to neglects to exercise the Call Option then the Security Deposit is forfeited to the Vendor;</p> <p>vi) the Vendor must consent to the Purchaser making any development application prior to completion (DA) and will, at the cost of the Purchaser, provide reasonable assistance to the Purchaser in making and progressing the DA;</p> <p>vii) the ownership of the DA, any other application and all plans, drawings and other documents to the extent of the Purchaser's ownership of that application and all plans, drawings and other documents and approval (if any approval is obtained) shall revert to the Vendor in the event of the Purchaser not proceeding with the purchase for any reason.</p> <p>viii) The Purchaser will pay its own costs in preparing and making any application.</p> <p>ix) The Vendor to provide to the Purchaser on request written authority to uplift or examine statutory records in respect of the property.</p> <p>x) The Purchaser will keep the Vendor informed of the outcome of any discussions with the Waverley Council;</p> <p>xi) the Purchaser will on request from the Vendor, provide the Vendor with minutes of any meetings and make available to the Vendor at the cost of the Vendor copies of any records uplifted or examined by the Purchaser.</p>
Deposit	:	The Purchaser will pay a deposit of \$335,000 (10 % of the Price) on exchange (exercise of the Call Option). The Security Deposit is credited to the Deposit payable on exercise of the Call Option;
Completion		Completion shall take place <u>5642</u> days after the exercise of the Call Option.
GST		The Price is exclusive of GST. GST is payable by the Purchaser in addition to the Price. The Vendor believes that the sale of the Property will be GST free as the supply of a going concern.

Possession		<p>The Purchaser will acquire the Property subject to the existing tenancies. In respect of the lease of the dental surgery, the terms of that lease are as follows:</p> <ul style="list-style-type: none"> a) term expires 31st March 2018 <u>30th November 2017</u> with no option term; b) rent is \$3,000 per month plus statutory outgoings and GST plus water usage charges <u>(no other outgoings are payable by the tenant)</u>; c) bond is \$NIL; d) lease contains an 84 day demolition clause. <u>The Landlord may not however require vacant possession prior to the 1st July 2017; and</u> e) tenant has early termination rights on 28 days notice.
Stamp Duty	:	Stamp duty will be payable by the purchaser on the Sale Price.
Costs		The Purchaser to contribute an amount of \$5,000 plus GST to the costs of the Vendor in relation to the grant of the Call Option payable at the time the Call Option is granted.

Elia Leis

From: John Denes <jdenes@andlegal.com.au>
Sent: Monday, 12 September 2016 11:12 AM
To: Elia Leis (elialeis@icloud.com)
Subject: FW: NESF CUSTODIANS PTY LTD SALE 27855

John Denes
Solicitor



Level 1, 376-382 New South Head Rd, Double Bay 2028
M: 0414 426 606 T: +61 (0)2 9328 2944 F: +61 (0)2 9328 7324
<http://www.andlegal.com.au>

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From: John Denes
Sent: Monday, 12 September 2016 11:11 AM
To: 'Frank Back'
Subject: RE: NESF CUSTODIANS PTY LTD SALE 27855

Hi Frank,

When do you expect to be in a position to email me draft documents?

Regards,

John

John Denes
Solicitor



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To: Noel Elmowy

time....regards Elia

Left a message Monday.
Will call today

Ok

Tue, 6 Sep 2:42 pm

Hi Noel,
We replied to Frank Back early last week to his list of agreed terms. Not sure if he is preparing option/contract as we have left messages but not much communication comes back. Are you aware of status? Regards Elia

eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 25 October 2016 4:22 PM
To: Mr Elia Leis (Purchaser)
Subject: Elmowy
Attachments: img-X25150105-0001.pdf

Regards

John Denes
Solicitor

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

From: xerox
Sent: Tuesday, 25 October 2016 4:01 PM
To: John Denes
Subject: Scan Data from FX-9E4F96

Number of Images: 1
Attachment File Type: PDF

Device Name: DocuCentre-IV C3370
Device Location: PRINTER2

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<http://www.mailguard.com.au>

John Denes

To: fback@bsv.com.au
Subject: Leis Purchase from Elmoway

Dear Frank

I refer to your most recent email.

My client requests final confirmation by your client, that your client is not willing to proceed, before I am to close my file on the matter.

Regards

John

.....
John Denes
Solicitor



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Elia Leis

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 11 October 2016 10:29 AM
To: Elia Leis (elialeis@icloud.com)
Subject: FW: NESF CUSTODIANS PTY LTD SALE 27855

John Denes
Solicitor



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From: Heather Taylor [mailto:HTaylor@bsv.com.au]
Sent: Tuesday, 11 October 2016 9:47 AM
To: John Denes
Subject: NESF CUSTODIANS PTY LTD SALE 27855

NESF CUSTODIANS PTY LTD SALE
Ground Floor (Lot 2)/32 Spring Street, Bondi Junction
NEPUBA PTY LTD SALE
Level 1 (Lot 1)/32 Spring Street, Bondi Junction

John,

I refer to my telephone conversation with you on 6 October 2016 and confirm that I am awaiting further instructions as to whether or not this matter is to proceed.

I will let you know as soon as I have those instructions.

Regards,

Frank Back | Partner
Back Schwartz Vaughan
Level 1, 156 Edgecliff Road, Woollahra NSW 2025
T: +61 (02) 8383-3777 | F: +61 (02) 8383-3700
E: fback@bsv.com.au | W: www.bsv.com.au

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eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Thursday, 6 October 2016 3:35 PM
To: eleis@bigpond.com
Subject: RE: Frank Back contract?

Hi Elia

I spoke to Frank Back.

He said his client was having second thoughts, apparently, not because of the price but because he is worried that he will not find alternative premises for his surgery.

Please call the vendor and have a discussion with him.

Regards

John Denes
Solicitor



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From: eleis@bigpond.com [mailto:eleis@bigpond.com]
Sent: Thursday, 6 October 2016 2:15 PM
To: John Denes
Cc: mrstargate@bigpond.com
Subject: Frank Back contract?

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407

www.stargateproperty.com.au

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PROPERTY

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eleis@bigpond.com

From: John Denes <jdenes@andlegal.com.au>
Sent: Tuesday, 4 October 2016 4:57 PM
To: eleis@bigpond.com
Subject: RE: Frank Back ?

I called Frank Back. He was busy and could not take my call. I spoke to his secretary, Heather. She said that he returned to work today and the file was back on his desk. He said to her that he had to get further instructions from his client. I left a message for him to call me.

John Denes
Solicitor



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From: eleis@bigpond.com [mailto:eleis@bigpond.com]
Sent: Tuesday, 4 October 2016 12:05 PM
To: John Denes
Subject: Frank Back ?

Regards,

Elia Leis
Director
Stargate Property Group
0411 507 072
02 8668 5407
www.stargateproperty.com.au

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