

DIE REPUBLIEK VAN SUID-AFRIKA

NOTARIËLE PRAKTYK EKSAMEN

DATUM: 19 OKTOBER 2016
TYD: 09:00-13:15
TOTAAL: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van vier uur volg dan.

NOTAS:

1. KANDIDATE moet al die vrae beantwoord.
2. KANDIDATE moet slegs EEN KANT van die papier gebruik.
3. KANDIDATE moet elke vraag op 'n nuwe vel begin en die nommer van die vraag aanstip aan die linkerbokant van die vel en sy of haar eksamennommer aan die regterkant van die vel papier, bv:

NOTARIËLE EKSAMEN	
VRAAG 1	60831/09

Sou u antwoord op enige vraag meer as een vel papier beslaan, moet die volgende velle agtereenvolgend genummer word en ook die nommer van die vraag en u eksamennommer dra, bv:

BLADSY 2	
VRAAG 1	60831/09 (Vervolg)

4. Waaral die besonderhede wat nodig is vir aktekantoor-doeleindes nie voorsien word nie, moet KANDIDATE hulle eie verbeelding gebruik om die weggelate inligting te verskaf.
5. Aangesien vier uur toegelaat word, word van kandidate verwag om die aktes en ander dokumente wat gevra word, akkuraat op te stel.
6. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat 'n totaal van tussen 40% en 49% behaal sal hy/sy 'n mondeling moet aflê. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en druidus hierdie eksamen.

THE REPUBLIC OF SOUTH AFRICA

NOTARIAL PRACTICE EXAMINATION

DATE: 19 OCTOBER 2016
TIME: 09:00-13:15
TOTAL: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of four hours then follows.

NOTES:

1. CANDIDATES are required to answer all questions.
2. CANDIDATES must write on ONE SIDE of the paper only.
3. CANDIDATES must commence each question on a fresh sheet of paper, giving the question number on the top left and his or her examination number on the top right hand side of the sheet, e.g:

NOTARIAL EXAMINATION	
QUESTION 1	60831/09

Should you answer to any question comprise more than one sheet, subsequent sheets must be numbered consecutively and must also bear the question number and your examination number, e.g:

PAGE 2	
QUESTION 1	60831/09 (Continued)

4. Where all details for deeds office purposes are not provided, CANDIDATES are required to draw on their imagination to provide the missing information.
5. As four hours are being allowed for this paper candidates will be expected to draft the deeds and other documents in so far as is required of them accurately.
6. Except if a special reason exists, a candidate will not be required to do an oral if 50% or more is attained. If a candidate achieves an aggregate of between 40% and 49% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this examination.

VRAAG 1 [15]

Diamond Haven, 'n deeltitelskema wat bestaan uit 9 Eenhede (Dele) is op Erf 81 Montrose, Kwazulu Natal Provinsie ontwikkel. Die Ontwikkelaar, Jack Hunt, het al 9 Eenhede aan verskillende kopers verkoop en oorgedra. Mnr Hunt het nie 'n Reg tot Uitbreiding van die skema kragtens die bepalings van artikel 25 van die Deeltitelwet aan homself voorbehou nie. Die eienaars van die 9 Eenhede het almal verbande geregistreer oor hulle Eenhede ten gunste van verskeie banke/finansiële instellings.

Die 9 Eenhede is so opgerig dat 'n groot gedeelte van Erf 81 Montrose onbeset gelaat is. Die titelvoorwaardes en sonering van die Erf laat dit toe dat nog 5 Eenhede op die onbesette gedeelte van die Erf ontwikkel kan word. Die 9 geregistreerde eienaars maak glad nie gebruik van die onbesette gedeelte nie.

Buzz Trade BK nader die 9 geregistreerde eienaars met 'n aanbod om die reg om die verdere 5 Eenhede op eie koste te ontwikkel te koop, welke aanbod die eienaars aanvaar.

- 1.1 Stel die dokument op wat aan Buzz Trade BK die regsal verleen om die 5 Eenhede op die onbesette gedeelte van Erf 81 Montrose te ontwikkel. (11)
- 1.2 Watter dokument moet gelyktydig met of net voor die dokument in 1.1 in die Aktekantoor geregistreer word? (1)
- 1.3 Wie moet toestem tot die registrasie van 1.1 hierbo? (3)

VRAAG 2 [5]

U word geraadpleeg deur u kliënt, Matloko Matlhoko, 'n geskeide man, om sy testament op te stel. Hy het onlangs blind geword as gevolg van 'n siekte. Berei die sertifikaat voor wat u as notaris sal onderteken as 'n aanhangsel tot die testament in die lig van Mnr Matlhoko se ongesteldheid.

QUESTION 1 [15]

A sectional title scheme, Diamond Haven, consisting of 9 Units (Sections) has been established on Erf 81 Montrose, Province of Kwazulu Natal. The Developer, Jack Hunt, has sold and transferred all 9 Units to various Purchasers. Mr Hunt did not reserve a Right to Extend the scheme in terms of section 25 of the Sectional Titles Act. The owners of the 9 Units have all registered Mortgage bonds over their Units in favour of various financial institutions/banks.

The 9 Units have been erected in such a way that a large portion of Erf 81 Montrose has been left vacant. In terms of the title deed conditions and zoning it is possible to erect another 5 Units on the vacant portion of the Erf. The 9 registered owners are not making any use of the vacant portion of the Erf.

Buzz Trade CC approaches the 9 registered owners with an offer to purchase the right to develop the further 5 Units for its own account which offer they all accept.

- 1.1 Draft the document that would give Buzz Trade CC the right to erect the 5 Units on the vacant portion of Erf 81 Montrose. (11)
- 1.2 What document should be registered in the Deeds Registry simultaneously or prior to the document referred to in 1.1? (1)
- 1.3 Who would have to consent to 1.1 above? (3)

QUESTION 2 [5]

Your client, Matloko Matlhoko, a divorcee, consults you to draw his will. He is blind through an illness contracted recently. In view of Mr Matlhoko's impediment, draw the certificate that you as the notary are required to sign which is attached to the will.

VRAAG 3 [20]

Katlego Maboe is 'n belowende jong krieketspeler met 'n droom om vir die Suid Afrikaanse nasionale span, die Proteas, te speel. Hy het twee seisoene distrikskrieket in Engeland gespeel, waar hy die liefde van sy lewe, Alicia Brown, 'n suksesvolle model, ontmoet het. Katlego en Alicia het besluit om in die huwelik te tree, maar staan 'n klompie uitdagings in die gesig:

- Alicia is slegs 17 jaar oud;
- Alicia het deur haar beroep, 'n aansienlike boedel opgebou, wat bykans uitsluitlik uit beleggings bestaan, wat deur haar vader bestuur word;
- Hulle verlang dat hul huwelik deur Suid Afrikaanse reg beheers word, alhoewel Katlego weliswaar 'n Britse onderdaan mag word as hy nie sy drome kan verwesenlik in Suid Afrika nie;
- Katlego en Alicia is deeglik bewus daarvan dat kinders die einde van haar loopbaan sal beteken. Hulle het besluit dat hulle vir ten minste tien jaar kinderloos sal bly van wanneer af hulle dan gelykop sal deel in die groei van enige bates;
- Alicia se vader John is oortuig daarvan dat sy 'n fout maak, maar is bereid om teësinning sy seën oor die huwelik uit te spreek op voorwaarde dat die huweliksvoorwaardekontrak 'n testamentêre voorwaarde bevat waarkragtens Katlego, by sy afsterwe, sy gehele boedel aan Alicia bemaak of, indien sy voor hom te sterwe kom, aan die kinders gebore uit hul huwelik;
- John verlang ook dat dit duidelik moet wees dat Katlego op geen stadium enige eis op Alicia se beleggings mag hê nie.
- Hierdie voorwaardes is vir Katlego aanvaarbaar, maar onderhewig daaraan dat enige voordeel wat hy van sy familietrust mag ontvang (wat hy in elk geval van enige aanwasberekening wil uitsluit) uitgesluit sal wees van die bemaking.
- In die lig daarvan dat Katlego tans op borg-

QUESTION 3 [20]

Katlego Maboe is a promising young cricketer whose dream is to play for the South African national team, the Proteas. He has played two seasons of county cricket in England, where he met the love of his life, Alicia Brown, a successful model. Katlego and Alicia have decided to get married, but face a number of challenges:

- Alicia is only 17;
- Alicia has built up a substantial estate through her modelling career, consisting almost exclusively of investments, managed by her father;
- They wish for South African law to govern their marriage, although Katlego may well become a UK citizen should he not achieve his goals, in South Africa;
- Katlego and Alicia are aware thereof that the arrival of children will put an end to her career. They have decided that they will postpone the arrival of children for at least ten years, from which point they believe they should share equally in the growth of any assets;
- Alicia's father John is convinced she is making a mistake, but will reluctantly give his blessing to the marriage provided that the antenuptial contract includes testamentary provisions in terms of which Katlego bequeaths his entire estate on his death to Alicia or, should she predecease him, to any children born of their marriage;
- John also requires that Katlego should not at any stage be able to lay any claim to Alicia's investments.
- Katlego is amenable to this condition, but subject thereto that any benefit that he is to receive from his family trust, which he in any event wishes to exclude from any accrual calculation, is excluded from this bequest.
- As Katlego survives on sponsorships, Alicia wants to donate to him an amount of £50 000 on their wedding day. This amount

skappe staatmaak om te oorleef, wil Alicia 'n bedrag van £50 000 aan hom skenk op hulle huweliksdag. Hierdie bedrag moet dan ook uitgesluit word van die aanwas en testamentêre bemaking.

- Katlego en Alicia sal na Suid Afrika reis en die huwelikskontrak voor u onderteken. Dit sal egter nie vir John Brown moontlik wees om teenwoordig te wees nie, en hy stel ook nie belang daarin om 'n volmag aan enige iemand te verleen om namens hom voor u te verskyn nie.
- In die lig daarvan dat Katlego en Alicia gereeld in die kollig is verlang hulle dat die huwelikskontrak so min as moontlik van hulle finansiële posisie weergee.

Daar word van u verlang om die huwelikskontrak voor te berei.

VRAAG 4 (Sien Aanhangsel) [10]

Die eThekweni Munisipaliteit wil 'n 6 meter wye pyplynserwituut oor Erf 786 Westville, Registrasie Afdeling FT, Kwazulu Natal Provinsie, groot 2030 vierkante meter, registreer. Die eiendom word besit deur Deon Andries en Lizette Andries, getroud buite gemeenskap van goedere, en gehou kragtens Akte van Transport T4979/2007. 'n Sketsplan wat die voorgestelde serwituut aantoon is aangeheg. 'n Afskrif van konsolidasiediagram SG No. 3803/1985 is ook aangeheg.

Die Munisipaliteit beskik nie oor 'n serwituutkaart nie en gee aan u opdrag om die serwituut te registreer by wyse van beskrywing, en stem toe om 'n bedrag van R18 000.00 aan die grondeienaars te betaal as vergoeding vir registrasie van die serwituut.

Stel die serwituutakte op.

VRAAG 5 [10]

5.1 Verduidelik kortliks die verskil tussen 'n persoonlike reg en 'n persoonlike serwituut, en die toets om die registreerbaarheid daarvan te bepaal, soos deur ons howe ontwikkel. (7)

is also to be excluded from the accrual and bequest.

- Katlego and Alicia will travel to South Africa to execute the antenuptial contract before you. John Brown will however not be able to attend and is also not amenable to provide a power of attorney to anyone to appear on his behalf.
- Due to the high profile lives that they live, Katlego and Alicia require that the antenuptial contract discloses as little information as possible about their financial position.

You are required to draft the antenuptial contract.

QUESTION 4 (See Annexure) [10]

The eThekweni Municipality wishes to register a 6 metre wide pipeline servitude over the property described as Erf 786 Westville, Registration Division FT, Province of KwaZulu-Natal, in extent 2030 square metres. The property is owned by Deon Andries and Lizette Andries married out of community of property to each other and held under Deed of Transfer No. T4979/2007. A plan showing the proposed water pipeline servitude is attached. A copy of the consolidated diagram SG No. 3803/1985 is also attached.

The Municipality does not have a servitude diagram and instructs you to register the servitude by description and agrees to pay to the Owners the sum of R18 000.00 for the registration of the Servitude.

Prepare the deed of servitude.

QUESTION 5 [10]

5.1 Shortly explain the difference between a personal right and a personal servitude, and the test to determine the registerability thereof as developed by our courts. (7)

5.2 Op watter maniere kan 'n servituut van reg van weg ten gunste van die algemene publiek geskep word? (3)

5.2 In which ways can a servitude of right of way be created in favour of the general public? (3)

VRAAG 6 [20]

QUESTION 6 [20]

6.1 Jack Sprat, Jill Sprat en Mary Rose is die huidige trustees van die ABC Trust, welke trust 'n voertuigverhurlingsbesigheid (meestal aan vakansiegangers) regdeur Suid-Afrikabedryf. Hulle nader finansierders, XYZ Bank Beperk, om hulle by te staan met 'n lening van R20 000 000,00 om hulle bestaande vloot met nog 2 luukse voertuie uit te brei. Die finansierders is bereid om dit te doen, onderhewig daaraan dat die trust hulle van die beste sekuriteit wat ten opsigte van die nuwe voertuie bestaan voorsien, en hulle ook van 'n alles-omvattende vorm van sekuriteit voorsien met betrekking tot die bestaande vloot voertuie.

6.1 Jack Sprat, Jill Sprat and Mary Rose are the trustees for the time being of The ABC Trust, which carries on the business of letting vehicles to mostly holiday-makers throughout South Africa. They approach their financiers, XYZ Bank Limited, to assist them with a loan of R20 000 000,00 to increase their existing fleet by 2 luxury vehicles. The financiers agree to this on condition that the Trust provides them with the best security there is in respect of the new vehicles being purchased and also provides them with a wide-ranging form of security in respect of the existing fleet.

Stel die dokument op wat die finansierders van ABC Trust verlang, en vermeld slegs die opskrifte van die aanvullende klousules. (10)

Draft the document that the financiers will require from The ABC Trust and only mention the headings of the ancillary clauses. (10)

6.2 Twee jaar later wil ABC Trust een van die nuwe voertuie verkoop en dit vervang met twee kleiner voertuie. Die finansierders stem toe tot die ontheffing van die luukse voertuig, maar verlang dat die twee kleiner voertuie as vervangende sekuriteit moet dien.

6.2 Two years later, The ABC Trust wishes to sell one of the new vehicles purchased and to replace it with 2 smaller vehicles. The financiers consent to the discharge of the luxury vehicle, provided the 2 smaller vehicles being purchased are replaced as security.

Stel die dokumente op wat benodig word om die een luukse voertuig te onthef en te vervang met die twee kleiner voertuie. (10)

Draft the documents required to release the one luxury vehicle and to substitute it with the 2 smaller vehicles. (10)

VRAAG 7 [10]

QUESTION 7 [10]

7.1 Verduidelik hoe 'n wissel aangebied moet word vir betaling. (2)

7.1 Describe how a bill of exchange must be presented for payment. (2)

7.2 Verduidelik/definiër die volgende:

7.2 Define/explain what is meant by the following:

- a) 'n wissel; (2)
- b) 'n promesse; (2)
- c) aanvaarding van 'n wissel; (2)
- d) endossement (2)

- a) A Bill of Exchange; (2)
- b) A promissory note; (2)
- c) Acceptance of a Bill; (2)
- d) Endorsement. (2)

VRAAG 8 [10]

QUESTION 8 [10]

U kliënt, James Nod, is 'n trustee van 'n *inter vivos* trust wat voorsiening maak vir die aanstelling van slegs twee trustees. Die trust besit onroerende eiendom wat in die Pretoria en Bloemfonteinse Aktekantore geregistreer is. Die trustakte is geregistreer by die kantore van die Meester in Pretoria. Om die administrasie van die trust te vergemaklik versoek hy u om die trustakte te wysig om voorsiening te maak vir die aanstelling van 'n derde trustee.

Your client, James Nod, is the trustee of an *inter vivos* trust which makes provision for the appointment of only two trustees. The Trust owns immovable properties registered in the Pretoria and Bloemfontein Deeds Offices. The trust deed is registered at the Master's Office, Pretoria. To facilitate the administration of the trust, he requests you to amend the trust deed to make provision for the appointment of a third trustee.

- 8.1 Stel die nodige notariële akte van wysiging van die trust op. (8)
- 8.2 Waar moet die wysigende akte geregistreer of ingedien word? (1)
- 8.3 Van wanneer af het die nuut-aangestelde trustee die bevoegdheid om namens die trust op te tree? (1)

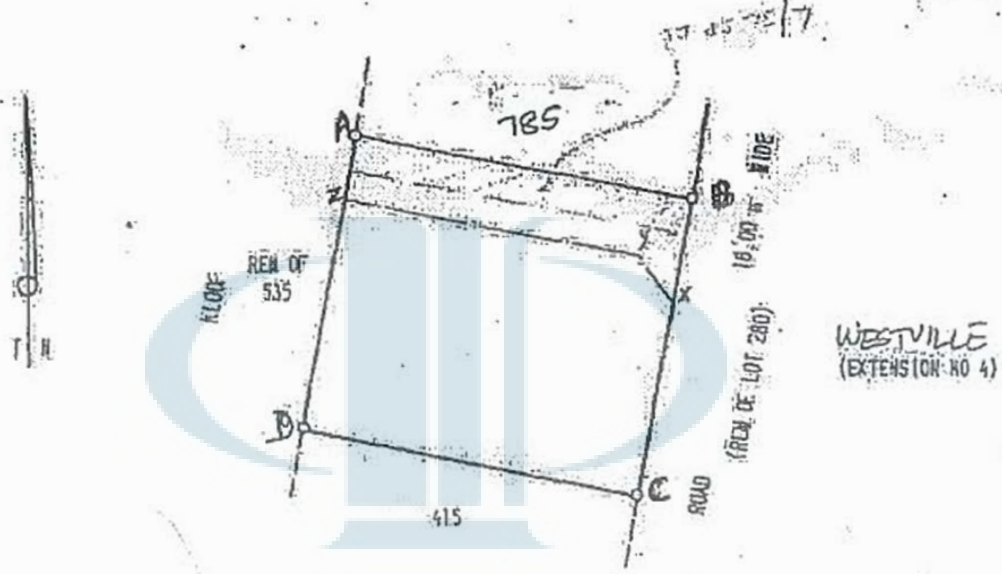
- 8.1 Draft the necessary notarial deed of variation of the trust. (8)
- 8.2 Where should the notarial deed of variation be registered or lodged? (1)
- 8.3 When does the newly appointed trustee have the authority to act on behalf of the trust? (1)

- DIE EINDE -

- THE END -

SIDES (MAG)	DIRECTIONS	COORDINATES		S. G. No.
		Y System	Lo. 3) X	
AB	Constant	+ 10 000,00	+ 3 290 000,00	3803/1985 Approved <i>[Signature]</i> Surveyor General 1985-12-09
BC	200° 40' 10"	+ 2 787,30	+ 3 741,91	
	10° 40' 10"	+ 2 737,16	+ 3 750,37	
	60° 29' 30"	+ 786,46	+ 1 004,71	
	652° 29' 30"	+ 3 498,62	+ 5 183,30	
CD	100° 40' 10"			
DA	190° 40' 10"			

RTB PDR 2/853



Description of Bearings:

- A, B; : 16 mm Iron Pegs
- C, D; : 12 mm Iron Pegs

SCALE 1 : 1 000

The figure A B C D represents ~~2030~~ 2030 Square Metres of land being **ERF 786 WESTVILLE**

- and comprises:
- The figure A B x y z representing Sub 2 of Lot 1521 WESTVILLE (Extension No 4) vide Diagram No. 3801/1985 and Deed of Transfer
 - The figure z y x C D representing Lot 414 WESTVILLE (Extension No 4) vide General Plan S.S. No. 2164/1972 and Deed of Transfer No 5151/1978

situate in the Borough of New Germany, Administrative District and Province of Natal
Compiled in September 1985

by me: *[Signature]* Land Surveyor

This Diagram is unoxed to No. T 4979/2057 Registrar of Deeds	The Original Diagram is No. _____ Transfer/Grant No. _____	File No. /38 S.R. No. Compiled Comp. FT-ES-BA Degree Sheet. 59
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Reg. Div. FT

Plan showing

**Proposed 6m Water Pipeline Servitude
Bierbaum Street**

**Kloof
eThekweni Municipality**

Cadastral Description:

Proposed 6m Water Pipeline Servitude over Erf 1323, New Germany

Notes:

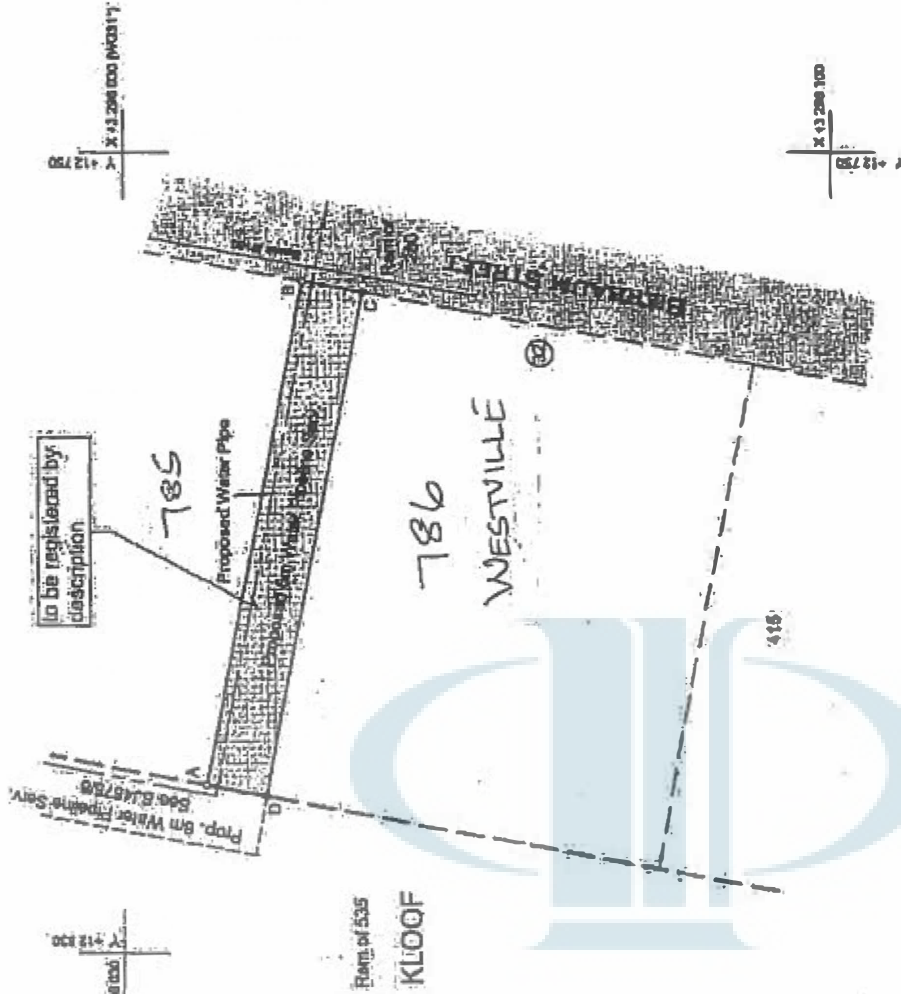
1. Street address is included.
2. All surveys, show or observations, are obtained from the appropriate DIB database or other relevant Internet or external Database, and should be verified on site, as applicable.
3. Dimensions to two decimals are as per approved survey.

SCHEDULE OF OWNERSHIPS		
PROPERTY	REGISTERED OWNER	DAGRAK NUMBER CURRENT DEED
erf 185 Westville	De L. Andried	TA 19100

The rights in the above property has been taken from WINDREY

Existing Road Area

Proposed 6m Water Pipeline Servitude (307 sq.m)



SCALE 1:500

BLK No.	Area	BLK No.	Area
AB	35.76	CD	0.9
BC	0.9	DE	0.1
CD	0.1	DE	0.1

Prop. 6m Water Pipeline Serv.
Erf 1323

Area = 307 sq.m



Area and dimensions are subject to final survey, as required

Drawn by: S.L.
Checked by: I.C.N.Information correct as at: 2008/11/27

Copy to Buyer: On By: [Signature]
Completion Sheet No.: FT - BEI - BA
Job No.: 2008/150
Scale No.: X4025

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