

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 1 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]

Covered by Subdivision Certificate No.  
Dated:

**Full name and address of proprietors  
of the land:**

Infrastructure NSW  
[insert address of registered proprietor]

**[Drafting Note: This has been updated from the Barangaroo Delivery Authority, given that on 1 July 2019, the Barangaroo Delivery Authority was abolished and its functions transferred to Infrastructure NSW. This will need to be checked to reflect the relevant registered proprietor of Lot 500 at the time that this s88B instrument is lodged.]**

## **PART 1 - CREATION**

**[Drafting Note: This list (and the easements created) may be developed and added to as the development progresses. It is proposed that this plan of subdivision will create the Crown Lot (H1) – Lot 501 and that there will be a further subdivision of Lot 501 (undertaken by Crown) to create Lots 801 (Casino Lot), 802 (Hotel/Retail Lot) and 803 (Residential Lot). The further subdivision will necessitate further easements to Lots 801, 802 and 803 and may also necessitate additional easements to be added or other amendments to be made to this section 88B instrument for Lot 501.]**

<b>Number of item shown in the intention panel on the plan</b>	<b>Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan</b>	<b>Burdened lot(s) or parcel(s):</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities:</b>
1	Easement for access variable width (A#) (Limited in Stratum)	500	501 and Infrastructure NSW
2	Easement for overhanging and encroaching structures variable width (AW#) (Limited in Stratum)	500	501
3	Easement for maintenance and repair variable width (MA#) (Limited in Stratum)	500 and 101	501

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 2 of 29)

Plan:

Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]

Covered by Subdivision Certificate No.  
Dated:

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
4	Easement for support and shelter variable width (SS#) (Limited in Stratum) <b>[Drafting Note: This relates to the Easement for support of Roads, Footpaths, Services and Park Landscaping marked as (C) on page 3 of the draft plan]</b>	500 and 501	500 and 501
5	Easement for provision of supply of Chilled Water Service variable width (CW#) (Limited in Stratum)	501	Lot 202 in DP1204948
6	Easement for receipt of supply of Chilled Water Service variable width (CW#) (Limited in Stratum)	Lot 202 in DP1204948	501
7	Easement for provision of supply of Recycled Water Service variable width (RW#) (Limited in Stratum)	501	Lot 203 in DP1204948
8	Easement for receipt of supply of Recycled Water Service variable width (RW#) (Limited in Stratum)	Lot 203 in DP1204948	501
9	Easement for provision of supply of Embedded Network Connection Services variable width (EN#) (Limited in Stratum)	501	Lot 204 in DP1204948
10	Easement for receipt of supply of Embedded Network Connection Services variable width (EN#) (Limited in Stratum)	Lot 204 in DP1204948	501
11	Positive Covenant	501	Infrastructure NSW
12	Easement for Public Access (PA#) (Limited in Stratum)	501	Infrastructure NSW

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS PROFITS À PRENDRE  
INTENDED TO BE CREATED OR RELEASED AND RESTRICTIONS ON THE USE OF  
LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE  
CONVEYANCING ACT 1919**

(Sheet 3 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

## **PART 2 – TERMS**

### **1 Interpretation**

#### **1.1 Definitions**

These meanings, in any form, apply unless the contrary intention appears:

**Act** means the *Conveyancing Act 1919* (NSW).

**Approvals** means the development approval Concept Plan 06\_0162 – Barangaroo (as amended from time to time).

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, positive covenant and restriction on use created by this instrument. Subject to the terms of an easement, positive covenant and restriction on use, an Authorised User includes, without limitation:

- (a) the Building Management Committee; and
- (b) the tenants, lessees, sub-lessees, employees, agents, contractors, licensees and invitees of the Grantee.

**Authority** means any government or governmental, semi-governmental, quasi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity and includes the Council.

**Building Management Committee** means any building management committee constituted under the Building Management Statement.

**Building Management Statement** means a building management statement registered according to Division 3B of the Act which applies to any and all of the lots in the Plan (or any lots created upon further subdivision of a lot in the Plan) from time to time.

**Chilled Water Plant** means the plant and equipment for the production and reticulation of chilled and hot water, including an integral harbour heat rejection system and including other services provided under a Chilled Water Supply Agreement.

**Chilled Water Service** means the production and reticulation of chilled and hot water from the Chilled Water Plant, including other services provided under a Chilled Water Supply Agreement.

**Chilled Water Supplier** means an operator from time to time of the Chilled Water Plant and the Chilled Water Service.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 4 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

**Chilled Water Supply Agreement** means an agreement for the supply of chilled water and other services between a Chilled Water Supplier and an Occupier.

**Council** means the City of Sydney Council and its successors.

**Development Act** means the *Strata Schemes Development Act 2015* (NSW).

**Distribution System** has the meaning given to that term in the *Electricity Supply Act 1995* (NSW).

**Easement Site** means in relation to an easement, positive covenant and restriction on use in this instrument:

- (a) the site of an easement, positive covenant and restriction on use identified on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement, positive covenant or restriction on use.

**Embedded Network** means the Distribution System located within Lot 204 in Deposited Plan 1204948.

**Embedded Network Connection Services** means the connection of Lot to the Embedded Network and the maintenance of capacity for electricity to be supplied to or received from a Lot from the Embedded Network, including other services provided under an Embedded Network Connection Services Agreement.

**Embedded Network Connection Services Supplier** means an operator from time to time of the Embedded Network and the Embedded Network Connection Services.

**Embedded Network Connection Services Agreement** means an agreement for the supply of Embedded Network Connection Services between an Embedded Network Connection Services Supplier and an Occupier.

**Government Agency** means any government or governmental, semi or local government, statutory, public or other authority having jurisdiction over any lot in the Plan from time to time.

**Grantee** means:

- (a) the Owner of a Lot Benefited; and
- (b) an Authority benefited.

**Grantor** means the Owner of a Lot Burdened.

**Infrastructure NSW** means Infrastructure NSW, a NSW government agency constituted under the *Infrastructure NSW Act 2011* (and includes any succeeding authority in which the freehold land of Infrastructure NSW is vested or transferred).

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 5 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

**Long Term Lease** means a lease for a term of greater than 50 years when it was granted.

**Lot** has the meaning given to that term in the Building Management Statement.

**Lot Benefited** means a lot benefited by an easement, positive covenant or restriction on use in this instrument.

**Lot Burdened** means a lot burdened by an easement, positive covenant or restriction in this instrument.

**Occupier** has the meaning given to that term in the Building Management Statement.

**Owner** means:

- (a) if a lot has been subdivided by Strata Plan, the Owners Corporation; or
- (b) if a Long Term Lease has been granted in respect of the lot, the holder of that Long Term Lease; or
- (c) if a Long Term Lease has not been granted in respect of the lot, the owner of the freehold of the lot.

**Owners Corporation** means an owners corporation for a Strata Scheme.

**Plan** means the plan of subdivision to which this instrument relates.

**Public Domain** means land which is not the subject of a Long Term Lease and which consists of an area intended for the use and enjoyment of members of the public in accordance with the Approvals.

**Public Domain Items** means items:

- (a) installed, erected or otherwise placed by, for or on behalf of Infrastructure NSW in or on the Public Domain;
- (b) for use and enjoyment by general members of the public, including, but not limited to, street furniture (tables, chairs, benches, sunlounges, deck chairs, umbrellas, sunshades and weather shades), trees, plants, shrubbery, flower beds, public art, fountains, statues, sculptures, outdoor advertising, market stalls, entertainment equipment, street lighting (including all poles, wires and other infrastructure for the provision of street lighting), way-finding signage and location maps,

and including any other similar items whether being of a temporary or permanent nature.

**Recycled Water Plant** means the plant and equipment for the provision of recycled water and the collection of wastewater, including other services provided under a Recycled Water Supply Agreement.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 6 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

**Recycled Water Service** means the provision of recycled water and the collection of wastewater, including other services provided under a Recycled Water Supply Agreement.

**Recycled Water Supplier** means an operator from time to time of the Recycled Water Plant and the Recycled Water Service.

**Recycled Water Supply Agreement** means an agreement for the supply of recycled water and the collection of wastewater between a Recycled Water Supplier and an Occupier.

**Retail Public Domain** means those public domain areas adjoining a Lot, or part of a Lot, used for retail purposes.

**Road** means the land which is not the subject of a Long Term Lease and which consists of trafficable surfaces, pathways, kerbs and guttering and which is intended for use as a path for vehicular access in accordance with the Approvals (but excluding any waterproof membrane).

**Roads Authority** has the same meaning as in the *Roads Act (NSW) 1993*.

**Services** includes those services defined in section 196L of the Act and:

- (a) the supply of water, gas, recycled water, electricity or artificially heated or cooled air; and
- (b) fire safety or control services (including fire hydrant sprinkler systems); and
- (c) the provision of sewerage and drainage; and
- (d) telephone, radio, television or other transmission means; and
- (e) security systems; and
- (f) mechanical ventilation, including the exhaust systems and ventilation system servicing the carpark;
- (g) irrigation systems;
- (h) lifts; and
- (i) any other facility, supply or transmission,

including wires, ducts, cables, conduit tracks, pipes and risers for that service.

**Strata Plan** means a strata plan registered under the Development Act.

**Strata Scheme** means a strata scheme created on registration of a Strata Plan.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 7 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

## **1.2 References to certain terms**

Unless a contrary intention appears, a reference in this instrument to:

- (a) **(reference to anything)** a reference to anything is a reference to the whole or each part of it; and
- (b) **(references to statute)** a law, ordinance or code includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of them; and
- (c) **(singular includes plural)** the singular includes the plural and vice versa; and
- (d) **(meaning not limited)** the words “include”, “including”, “for example” or “such as” are not used as, nor are they to be interpreted as, words of limitation and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

## **1.3 Headings**

Headings do not affect the interpretation of this instrument.

## **1.4 Positive covenants and maintenance requirements**

A requirement in an easement, positive covenant or restriction on use in this instrument which requires a Grantee or Grantor to maintain or repair an Easement Site or a Lot Burdened or any thing in an Easement Site or Lot Burdened is a positive covenant according to section 88BA of the Act.

---

# **2 Interpretation**

## **2.1 Application of this clause**

This clause applies to each easement, positive covenant and restriction on use in this instrument, except where the contrary intention is expressed.

## **2.2 Covenants and agreements**

The easements, positive covenants and restrictions on use, including in this clause and clauses 3 (“Complying with this instrument and the Building Management Statement”) and 4 (“Effect of the Building Management Statement”), in each of the easements, positive covenants and restrictions on use in this instrument are covenants and agreements between:

- (a) each Grantee for itself, its successors and every person who is entitled to an estate or interest in possession of the Lot Benefited or any part of it with which the right is capable of enjoyment; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 8 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (b) each Grantor for itself, its successors and every person who is entitled to an estate or interest in possession of the Lot Burdened or any part of it with which the right is capable of enjoyment,

to the intent that the benefit and burden of those covenants and agreements are annexed to and pass with the benefits and burdens of the easements, positive covenants and restrictions on use.

## **2.3 Release**

- (a) The Grantee and its Authorised Users enter upon the Lot Burdened at their own risk and the Grantee hereby releases the Grantor and Infrastructure NSW from all damage, expense, loss, claims or liability of any nature that may arise in respect of any accident or damage to property or death or injury to any person entering upon the Lot Burdened under the terms of this instrument.
- (b) In the case of the Grantee's and its Authorised Users' releases of the Grantor, the Grantee and its Authorised Users do not release the Grantor to the extent that the damage, expense, loss, claim or liability is caused or contributed to by the act, negligence or omission of the Grantor.
- (c) In the case of the Grantee's and its Authorised Users' releases of Infrastructure NSW, the Grantee and its Authorised Users do not release Infrastructure NSW to the extent that the damage, expense, loss, claim or liability is caused or contributed to by the act, negligence or omission of Infrastructure NSW.

## **2.4 Indemnity**

- (a) The Grantee (other than Infrastructure NSW) indemnifies and agrees to keep indemnified the Grantor and Infrastructure NSW against all damage, expense, loss, claims or liability of any nature suffered or incurred by the Grantor or Infrastructure NSW arising from or in consequence of the exercise of rights under an easement, positive covenant or restriction on use in this instrument by the Grantee and any of its Authorised Users including but not limited to:
- (i) damage to the Lot Burdened, except fair wear and tear; and
  - (ii) damage to any property of the Grantor, Infrastructure NSW or any other person; and
  - (iii) injury to any person on or near the Lot Burdened,
- subject to clause 2.4(b) and clause 2.4(c), as applicable.
- (b) In the case of a Grantee's indemnity in favour of a Grantor other than Infrastructure NSW, the Grantee's indemnity will be reduced proportionately to the extent that the damage, expense, loss, claim or liability is caused or contributed to by the act, omission or negligence of the Grantor.



**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 9 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]

Covered by Subdivision Certificate No.  
Dated:

- (c) In the case of a Grantee's indemnity in favour of Infrastructure NSW, the Grantee's indemnity will be reduced proportionately to the extent that the damage, expense, loss, claim or liability is caused or contributed to by the act, omission or negligence of Infrastructure NSW.

## **2.5 Notice to owner**

If a notice to the Grantor is required to be given under this instrument, that notice must also be given to the Occupier of the Lot Burdened. If the Grantor is an Owners Corporation, the notice must be given to the strata manager and the on-site manager for the Owners Corporation, if any. Notice required in the case of an emergency may be given verbally.

## **2.6 Infrastructure NSW**

Infrastructure NSW (in its capacity as Grantee) is excluded from giving the Grantee's indemnity under clause 2.4 ("Indemnity").

## **2.7 Release and modification**

- (a) The easements, positive covenants and restrictions on use in this instrument may only be released or modified with the consent of the Owner of each relevant Lot Benefited and, if applicable, each Authority that is benefited.
- (b) A release or modification of an easement, positive covenant or restriction on use will not affect a party's right under the Building Management Statement.

---

# **3 Complying with this instrument and the Building Management Statement**

## **3.1 Obligations of Grantees and Grantors**

Each Grantee and Grantor must, as appropriate, comply with the terms of the easements, positive covenants and restrictions on use in this instrument and the Building Management Statement.

## **3.2 Obligations for Authorised Users**

For each easement, positive covenant and restriction on use in this instrument, each Grantee must use reasonable endeavours to ensure that its Authorised Users comply with the terms of the instrument when they exercise their rights or comply with their obligations under the instrument.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 10 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

### **3.3 Complying with the Building Management Statement**

For each easement, positive covenant and restriction on use in this instrument, the Grantee who is required to comply with the Building Management Statement must:

- (a) comply with the Building Management Statement; and
- (b) use reasonable endeavours to ensure that its Authorised Users comply with the Building Management Statement which applies to the Lot Burdened.

---

## **4 Effect of the Building Management Statement**

### **4.1 Application of this clause**

This clause applies to each easement, positive covenant and restriction on use in this instrument.

### **4.2 Requirements about making rules**

If the Grantor is entitled under an easement, positive covenant or restriction on use to make rules about the use of an Easement Site, covenant or restriction by a Grantee or its Authorised User, the rules must be consistent with the easement, covenant or restriction and any Building Management Statement.

### **4.3 Apportionment of costs**

If a Building Management Statement regulates the apportionment of costs in relation to an easement, Easement Site or Lot Burdened and there is an inconsistency between the apportionment of costs under the easement and a Building Management Statement, the Building Management Statement prevails to the extent of the inconsistency.

---

## **5 Terms of Easement for access (A#) numbered 1 in the Plan**

### **5.1 Grant**

Subject to clauses 5.5 and 5.6, the owner of the freehold of the Lot Burdened grants to the Grantee and its Authorised Users the right to pass and repass over the trafficable surfaces and driveways within the Easement Site on the Lot Burdened:

- (a) with vehicles;
- (b) on foot;
- (c) with wheelchairs and other disabled access aids; and
- (d) with or without materials, tools and equipment,

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 11 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

for the purpose of accessing the Lot Benefited and the sites of those easements which benefit the Lot Benefited.

## **5.2 Making Rules**

Subject to clause 4.2 ("Requirements about making rules"), the Grantor may make reasonable rules about the use of the Easement Site by the Grantee and its Authorised Users.

## **5.3 Prohibitions**

The Grantee and its Authorised Users must not:

- (a) park or stand a motor vehicle or trailer on the Lot Burdened, except where otherwise expressly permitted; or
- (b) obstruct the use of the Lot Burdened.

## **5.4 Requirements when exercising rights**

When exercising their rights and complying with their obligations under this easement, the Grantee and its Authorised Users must:

- (a) cause as little inconvenience as practicable to the owner of the freehold of the Lot Burdened and Grantor and any Occupiers of the Lot Burdened;
- (b) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (c) exercise their right to access the Easement Site in the manner in which the relevant parts of the Easement Site are intended to be used;
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the owner of the freehold of the Lot Burdened and Grantor; and
  - (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition; and
- (e) comply with any rules about the use of the Easement Site made by the Grantor in accordance with clause 9.2 ("Making Rules") or the Building Management Statement.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 12 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

**5.5 Limitations on Easement Site**

Despite any other provision of this clause 5, the rights and obligations of the Grantee and the Grantor under this easement are limited as follows (and each restriction may apply individually):

- (a) the rights and obligations do not commence in respect of a part of the Easement Site unless and until that part of the Easement Site is the subject of an interim or final occupation certificate under the Environmental Planning and Assessment Act 1979 (NSW) in respect of the public realm works that are or are intended to be undertaken on the relevant part of the Easement Site;
- (b) the rights and obligations apply to those parts of the Easement Site that are designed and constructed for access, including road surfaces on a 'kerb to kerb' basis, and access ways and driveways into buildings; and
- (c) the rights and obligations do not apply in respect of a part of the Easement Site and are suspended for any period during which Infrastructure NSW considers acting reasonably that access to that part of the Easement Site would be unsafe, and in this regard Infrastructure NSW must permit an Owner or a Grantee to have reasonable access to the relevant Easement Site to enable the Owner or the Grantee to repair or make safe the unsafe part of the Easement Site.

**5.6 Release of easement on dedication as public road**

If any part of the Easement Site is dedicated as a public road (to any Roads Authority, including to Infrastructure NSW in its capacity as a Roads Authority) or public reserve to Council, then as and from the date of dedication:

- (a) subject to rights of access equivalent to the rights under this easement being created upon the dedication to the relevant Roads Authority or Council (whether by declaration, regulation or statutory operation), this easement will cease to have effect in respect of the part of the Easement Site the subject of the dedication;
- (b) the owner of the freehold of the Lot Burdened will be entitled to have this easement and notation for this easement removed from the title to the Lots Burdened in respect of the part of the Easement Site the subject of the dedication; and
- (c) the owner of the freehold of the Lot Burdened and the Grantee must, as soon as reasonably practicable, do all things and sign all documents necessary to remove this easement from the title to the part of the Lots Burdened as referred to in clause 5.6(b), including signing any plans, requests or other dealings and producing certificates of title at NSW Land Registry Services as required for registration.

The owner of the freehold of the Lot Burdened and Grantee must at all times ensure that this easement remains in effect and registered on the title to the Lot Burdened in respect of the remainder of the Easement Site to which clause 5.6(a) does not apply.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 13 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

**5.7 Variation of the Easement Site**

- (a) The Grantor and the Grantee agree that once the Road has been constructed, the parties must do all things reasonably necessary to ensure that this easement is varied so as to burden the land which comprises the Road.
- (b) The Grantor and Grantee agree to sign all documents and do all things necessary to give effect to paragraph (a) including but not limited to preparing a plan and dealing recording the variation of the easement over the Lot Burdened upon demand by the other in accordance with this clause. Each party will pay their own costs in connection with the documentation and action contemplated in this clause.

**5.8 Major events**

- (a) The Grantee acknowledges that it is aware that:
  - (i) the Lot Burdened is within a major event, entertainment and exhibition precinct;
  - (ii) entertainment and promotional events or activities and public festivals may be conducted within the precinct (including on adjoining land);
  - (iii) occupiers and users of the Lot Burdened may carry out other noisy activities;
  - (iv) Roads situated within the Lot Burdened may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair; and
  - (v) the events, activities or festivals may temporarily interfere with the Grantee's quiet enjoyment of the rights granted under this easement.
- (b) The Grantor must not prevent the Grantee or its Authorised Users from accessing the Lot Benefited at all times during any periods of closure or restricted access to the Lot Benefited as contemplated under clause 5.8(a)(v).

---

**6 Terms of easement for overhanging and encroaching structures (AW#) numbered 2 in the Plan**

**6.1 Grant of easement**

Subject to clauses 6.4 and 6.5, the owner of the freehold of the Lot Burdened grants the Grantee and its Authorised Users the right to:

- (a) construct, maintain and enjoy the building structures, supporting structures, facade, lights, services, security cameras and other improvements which are actually situated on or over the Easement Site (whether now or in the future), having their footings or

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 14 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

partial supports on or which are actually attached to the Lot Benefited (whether now or in the future):

- (i) to be supported vertically and horizontally by; and
- (ii) to overhang, overshadow and encroach over,

the structure and soil of the Easement Site and any part of it and by all pillars, beams, columns, slabs and walls actually standing for the time being (whether now or in the future) in, on, above or across the soil of the Easement Site or any part of it; and

- (b) enter onto the Lot Burdened and also to remain there for the reasonable time necessary (with tools, plant, equipment, machinery, vehicles, scaffolding or other materials) for the purposes of installing, inspecting, cleaning, repairing, maintaining, augmenting, renewing, replacing or removing and making good that part of the building structure which is located on, supported by or overhangs or encroaches the Lot Burdened.

## **6.2 Access to Easement Site**

Before exercising any rights under this easement, the Grantee and its Authorised Users must give reasonable notice to the Grantor of its intention to do so except in an emergency. In an emergency, the Grantee or its Authorised Users must give the Grantor notice of access to the Lot Burdened as soon as practicable.

## **6.3 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure the building structure is maintained to a high standard of repair and is at all times safe and clean;
- (b) ensure that each person undertaking any work under this easement at the request of a Grantee or an Authorised User has:
  - (i) current public liability insurance coverage for an appropriate level of coverage having regard to the nature of rights being exercised and the type of work being undertaken;
  - (ii) current workers compensation coverage;
  - (iii) provided to the Grantor an approved safe work method statement;
  - (iv) any other insurances as are reasonable under the prevailing circumstances from time to time; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 15 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (v) provided to the Grantor copies of the policies of insurance for public liability coverage, workers compensation coverage and other policies of insurance reasonable under the prevailing circumstances from time to time;
- (c) ensure that all work is:
  - (i) done properly and in accordance with the requirements of any Government Agency (if relevant); and
  - (ii) completed as quickly as practicable;
- (d) cause as little inconvenience as practicable to the Grantor and any Occupiers of the Lot Burdened;
- (e) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened; and
- (f) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and
  - (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage).

#### **6.4 Limitations on Easement Site**

Despite any other provision of this clause 6, the rights and obligations of the Grantee and the Grantor under this easement are limited as follows (and each restriction may apply individually):

- (a) the rights and obligations do not commence in respect of a part of the Easement Site unless and until that part of the Easement Site is the subject of an interim or final occupation certificate under the Environmental Planning and Assessment Act 1979 (NSW) in respect of the public realm works that are or are intended to be undertaken on the relevant part of the Easement Site;
- (b) the rights under this easement are subject to the rights of Infrastructure NSW to:
  - (i) install, maintain and replace (from time to time) Public Domain Items within the Easement Site; and
  - (ii) grant to the tenant under (except an Owners Corporation) a Long Term Lease (or a person nominated by or consented to by that tenant under a Long Term Lease) a licence over the Retail Public Domain which is within the Easement Site and which is immediately adjacent to that Owner's Lot for the

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 16 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]

Covered by Subdivision Certificate No.  
Dated:

purpose of seating associated with a non-food usage or the serving and consumption of food and beverages (which may include alcohol where permitted by law) as part of the dining and retail operations carried on by a tenant under a Long Term Lease (or a subtenant of that tenant),

provided always that the installation of the Public Domain Items or the grant of a licence over the Retail Public Domain (as applicable) does not substantially and materially deprive the Grantee of the intended purpose of the Easement Site in connection with this easement; and

- (c) the rights and obligations do not apply in respect of a part of the Easement Site and are suspended for any period during which Infrastructure NSW considers acting reasonably that access to that part of the Easement Site would be unsafe, and in this regard Infrastructure NSW must permit an Owner or a Grantee to have reasonable access to the relevant Easement Site to enable the Owner or the Grantee to repair or make safe the unsafe part of the Easement Site.

**6.5 Release of easement on dedication as public road or public reserve**

If any part of the Easement Site is dedicated as a public road (to any Roads Authority, including to Infrastructure NSW in its capacity as a Roads Authority) or public reserve to Council, then as and from the date of that dedication:

- (a) subject to rights of access equivalent to the rights under this easement being created upon the dedication to the relevant Roads Authority or Council (whether by declaration, regulation or statutory operation), this easement will cease to have effect in respect of the part of the Easement Site the subject of the dedication;
- (b) the Grantor will be entitled to have this easement and notation for this easement removed from the title to the Lots Burdened in respect of the part of the Easement Site the subject of the dedication; and
- (c) the Grantor and the Grantee must, as soon as reasonably practicable, do all things and sign all documents necessary to remove this easement from the title to the part of the Lots Burdened as referred to in clause 6.5(b), including signing any plans, requests or other dealings and producing certificates of title at NSW Land Registry Services as required for registration.

The Grantor and Grantee must at all times ensure that this easement remains in effect and registered on the title to the Lot Burdened in respect of the remainder of the Easement Site to which clause 6.5(a) does not apply.

**6.6 Major events**

- (a) The Grantee acknowledges that it is aware that:
- (i) the Lot Burdened is within a major event, entertainment and exhibition precinct;



**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 17 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (ii) entertainment and promotional events or activities and public festivals may be conducted within the precinct (including on adjoining land);
  - (iii) occupiers and users of the Lot Burdened may carry out other noisy activities;
  - (iv) Roads situated within the Lot Burdened may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair; and
  - (v) the events, activities or festivals may temporarily interfere with the Grantee's quiet enjoyment of the rights granted under this easement.
- (b) The Grantor must not prevent the Grantee or its Authorised Users from accessing the Lot Benefited at all times during any periods of closure or restricted access to the Lot Benefited as contemplated under clause 6.6(a)(v).

---

## **7 Terms of Easement for maintenance and repair (MA#) numbered 3 in the Plan**

### **7.1 Grant of easement**

Subject to clauses 7.4 and 7.5, the owner of the freehold of the Lot Burdened grants the Grantee and its Authorised Users the right to enter, pass and repass over, at all times, and remain on the Easement Site (excluding habitable areas) with or without material, tools and equipment for the period reasonably necessary to enable the Grantee to undertake maintenance, cleaning and repairs to the façade of building on the Lot Benefited.

### **7.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that each maintenance or repair service contractor undertaking any work under this easement at the request of a Grantee or an Authorised User has:
  - (i) current public liability insurance coverage for an appropriate level of coverage having regard to the nature of rights being exercised and the type of work being undertaken;
  - (ii) current workers compensation coverage;
  - (iii) provided to the Grantor an approved safe work method statement;
  - (iv) any other insurances as are reasonable under the prevailing circumstances from time to time; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 18 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (v) provided to the Grantor copies of the policies of insurance for public liability coverage, workers compensation coverage and other policies of insurance reasonable under the prevailing circumstances from time to time;
- (b) cause as little inconvenience as practicable to the Grantor and any Occupiers of the Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened; and
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and
  - (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage).

### **7.3 Reservations to Grantor**

Despite clause 7.1, nothing in this easement restricts the right of the Grantor to:

- (a) install, maintain and replace (from time to time) Public Domain Items within the Easement Site; or
- (b) grant to the tenant under (except an Owners Corporation) a Long Term Lease (or a person nominated by or consented to by that tenant under a Long Term Lease) a licence over the Retail Public Domain which is within the Easement Site and which is immediately adjacent to that Owner's Lot; or
- (c) administer the public domain areas within the Easement Site,  
in any manner determined by the Grantor, provided that the exercise by the Grantor of its rights under this clause 7.3 does not materially adversely affect:
  - (d) the use of the Lot Benefited, including the redevelopment potential of the Lot Benefited; or
  - (e) a Grantee's rights or obligations under a Long Term Lease; or
  - (f) the intended purpose of the Easement Site in connection with this easement.

### **7.4 Limitations on Easement Site**

Despite any other provision of this clause 7, the rights and obligations of the Grantee and the Grantor under this easement are subject to the rights of Infrastructure NSW to install, maintain

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 19 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

and replace (from time to time) Public Domain Items within the Easement Site and (and each restriction may apply individually to the Grantee and the Grantor).

**7.5 Release of easement on dedication as public road or public reserve**

If any part of the Easement Site is dedicated as a public road (to any Roads Authority, including to Infrastructure NSW in its capacity as a Roads Authority) or public reserve to Council, then as and from the date of dedication:

- (a) subject to rights of access equivalent to the rights under this easement being created upon the dedication to the relevant Roads Authority or Council (whether by declaration, regulation or statutory operation), this easement will cease to have effect in respect of the part of the Easement Site the subject of the transfer or dedication;
- (b) the Grantor will be entitled to have this easement and notation for this easement removed from the title to the Lots Burdened in respect of the part of the Easement Site the subject of the dedication; and
- (c) the Grantor and the Grantee must, as soon as reasonably practicable, do all things and sign all documents necessary to remove this easement from the title to the part of the Lots Burdened as referred to in clause 7.5(b), including signing any plans, requests or other dealings and producing certificates of title at NSW Land Registry Services as required for registration.

The Grantor and Grantee must at all times ensure that this easement remains in effect and registered on the title to the Lot Burdened in respect of the remainder of the Easement Site to which clause 7.5(a) does not apply.

**7.6 Major events**

- (a) The Grantee acknowledges that it is aware that:
  - (i) the Lot Burdened is within a major event, entertainment and exhibition precinct;
  - (ii) entertainment and promotional events or activities and public festivals may be conducted within the precinct (including on adjoining land);
  - (iii) occupiers and users of the Lot Burdened may carry out other noisy activities;
  - (iv) Roads situated within the Lot Burdened may be temporarily closed during periods when certain events or activities occur and for the purpose of carrying out maintenance and repair; and
  - (v) the events, activities or festivals may temporarily interfere with the Grantee's quiet enjoyment of the rights granted under this easement.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 20 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (b) The Grantor must not prevent the Grantee or its Authorised Users from accessing the Lot Benefited at all times during any periods of closure or restricted access to the Lot Benefited as contemplated under clause 7.6(a)(v).

---

**8 Terms of Easement for support and shelter variable width (SS#) numbered 4 in the Plan**

**8.1 Grant**

- (a) The owner of the freehold of the Lot Burdened grants the Grantee and its Authorised Users an easement for subjacent and lateral support and shelter in any direction of those parts of the building or other improvements (including roads, footpaths, services and park landscaping) now or in the future erected or constructed on the Lot Benefited (which must, where applicable, be erected or constructed on the Lot Benefited in compliance with the Long Term Lease granted in respect of the Lot Benefited) by those parts of the Lot Burdened and any structures erected or constructed on the Lot Burdened:
- (i) as are capable of affording or reasonably intended to provide that support and shelter; and
  - (ii) which actually provide that support and shelter (whether now or in the future).
- (b) Subject to clause 8.2, the Grantee and its Authorised Users may enter and remain on the Lot Burdened for the purposes of inspecting, constructing, repairing, maintaining or renewing any support and shelter to the Lot Benefited located on the Lot Burdened.

**8.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) comply with the relevant provisions, relating to those rights under this easement, of the Long Term Lease granted in respect of the Lot Benefited;
- (b) cause as little inconvenience as practicable to the Grantor and any Occupiers of the Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 21 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) except in an emergency, give the Grantor reasonable notice of its intention to enter the Lot Burdened.

---

**9**

**10 Terms of easement for provision of supply of Chilled Water Service (CW#) numbered 5 in the Plan**

**10.1 Grant of easement**

The Grantee and its Authorised Users:

- (a) may use the Easement Site to connect the Lot Burdened to the Chilled Water Plant in accordance with a Chilled Water Supply Agreement; and
- (b) may do anything reasonably necessary for that purpose and in connection with the supply of Chilled Water Service under a Chilled Water Supply Agreement, including:
  - (i) entering the Lot Burdened;
  - (ii) taking anything onto the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, replacing, repairing or maintaining pipes, structures and equipment within the Easement Site.

**10.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that all work is done properly and in accordance with the requirements of any Government Agency (if relevant);
- (b) cause as little inconvenience as practicable to the Grantor or any Occupiers of a Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 22 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) not interfere with the structural integrity of any buildings or infrastructure located on the Lot Burdened without the prior written consent of the Grantor, which consent must not be unreasonably withheld.

---

## **11 Terms of easement for receipt of supply of Chilled Water Service (CW#) numbered 6 in the Plan**

### **11.1 Grant of easement**

The Grantee and its Authorised Users:

- (a) may use the Easement Site to connect the Lot Benefited to the Chilled Water Plant in accordance with a Chilled Water Supply Agreement but only within the Easement Site and in a manner which does not detrimentally interfere with the use of the Lot Burdened;
- (b) may do anything reasonably necessary for that purpose, including:
  - (i) entering the Lot Burdened;
  - (ii) taking anything onto the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, replacing, repairing or maintaining pipes, structures and equipment within the Easement Site.

### **11.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that all work is done properly and in accordance with the requirements of any Government Agency (if relevant);
- (b) cause as little inconvenience as practicable to the Grantor or any Occupiers of a Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 23 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) not interfere with the structural integrity of any buildings or infrastructure located on the Lot Burdened without the prior written consent of the Grantor which consent must not be unreasonably withheld.

---

## **12 Terms of easement for provision of supply of Recycled Water Service (RW#) numbered 7 in the Plan**

### **12.1 Grant of easement**

The Grantee and its Authorised Users:

- (a) may use the Easement Site to connect the Lot Burdened to the Recycled Water Plant in accordance with a Recycled Water Supply Agreement; and
- (b) may do anything reasonably necessary for that purpose and in connection with the supply of Recycled Water Service under a Recycled Water Supply Agreement, including:
  - (i) entering the Lot Burdened;
  - (ii) taking anything onto the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, replacing, repairing or maintaining pipes, structures and equipment within the Easement Site.

### **12.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that all work is done properly and in accordance with the requirements of any Government Agency (if relevant);
- (b) cause as little inconvenience as practicable to the Grantor or any Occupiers of a Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 24 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) not interfere with the structural integrity of any buildings or infrastructure located on the Lot Burdened without the prior written consent of the Grantor, which consent must not be unreasonably withheld.

---

### **13 Terms of easement for receipt of supply of Recycled Water Service (RW#) numbered 8 in the Plan**

#### **13.1 Grant of easement**

The Grantee and its Authorised Users:

- (a) may use the Easement Site to connect the Lot Benefited to the Recycled Water Plant in accordance with a Recycled Water Supply Agreement but only within the Easement Site and in a manner which does not detrimentally interfere with the use of the Lot Burdened;
- (b) may do anything reasonably necessary for that purpose, including:
  - (i) entering the Lot Burdened;
  - (ii) taking anything onto the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, replacing, repairing or maintaining pipes, structures and equipment within the Easement Site.

#### **13.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that all work is done properly and in accordance with the requirements of any Government Agency (if relevant);
- (b) cause as little inconvenience as practicable to the Grantor or any Occupiers of a Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:
  - (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and



**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 25 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) not interfere with the structural integrity of any buildings or infrastructure located on the Lot Burdened without the prior written consent of the Grantor which consent must not be unreasonably withheld.

---

## **14 Terms of easement for provision of supply of Embedded Network Connection Services (EN#) numbered 9 in the Plan**

### **14.1 Grant of easement**

The Grantee and its Authorised Users:

- (a) may use the Easement Site to connect the Lot Burdened to the Embedded Network in accordance with the Embedded Network Connection Services Agreement; and
- (b) may do anything reasonably necessary for that purpose and in connection with the supply of Embedded Network Connection Services under an Embedded Network Connection Services Agreement, including:
  - (i) entering the Lot Burdened;
  - (ii) taking anything onto the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, replacing, repairing or maintaining cables and related infrastructure, structures and equipment within the Easement Site.

### **14.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that all work is done properly and in accordance with the requirements of any Government Agency (if relevant);
- (b) cause as little inconvenience as practicable to the Grantor or any Occupiers of a Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 26 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]

Covered by Subdivision Certificate No.  
Dated:

- (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and
- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) not interfere with the structural integrity of any buildings or infrastructure located on the Lot Burdened without the prior written consent of the Grantor, which consent must not be unreasonably withheld.

---

**15 Terms of easement for receipt of supply of Embedded Network Connection Services (EN#) numbered 10 in the Plan**

**15.1 Grant of easement**

The Grantee and its Authorised Users:

- (a) may use the Easement Site to connect the Lot Benefited to the Embedded Network in accordance with an Embedded Network Connection Services Agreement but only within the Easement Site and in a manner which does not detrimentally interfere with the use of the Lot Burdened;
- (b) may do anything reasonably necessary for that purpose, including:
  - (i) entering the Lot Burdened;
  - (ii) taking anything onto the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, replacing, repairing or maintaining pipes, structures and equipment within the Easement Site.

**15.2 Requirements when exercising rights**

When exercising rights under this easement, the Grantee and its Authorised Users must:

- (a) ensure that all work is done properly and in accordance with the requirements of any Government Agency (if relevant);
- (b) cause as little inconvenience as practicable to the Grantor or any Occupiers of a Lot Burdened;
- (c) cause as little damage as practicable to the Lot Burdened and any personal property or improvements on the Lot Burdened;
- (d) if any damage is caused:

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 27 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

- (i) promptly make good and repair such damage to the reasonable satisfaction of the Grantor; and
- (ii) (if relevant) restore the Lot Burdened as nearly as is practicable to its former condition (including, if relevant and without limitation, by restoring any excavated surface as nearly as possible to its original state and making good any collateral damage); and
- (e) not interfere with the structural integrity of any buildings or infrastructure located on the Lot Burdened without the prior written consent of the Grantor which consent must not be unreasonably withheld.

---

## **16 Terms of positive covenant numbered 11 in the Plan**

### **16.1 Positive covenant**

- (a) This positive covenant applies when Infrastructure NSW intends to dedicate land burdened by the easement for:
  - (i) easement for access (A#) numbered 1 in the Plan; or
  - (ii) overhanging and encroaching structures (AW#) numbered 2 in the Plan; or
  - (iii) maintenance and repair (MA#) numbered 3 in the Plan,in accordance with the terms of the relevant easement.
- (b) The Grantee of the relevant easement referred to in clause 16.1(a) must as soon as reasonably practicable after a written request from Infrastructure NSW, and at the reasonable cost of Infrastructure NSW provide all reasonable assistance to Infrastructure NSW (including signing all relevant documents) to allow for or facilitate a dedication contemplated by paragraph (a). This may include the creation of additional easements, positive covenants and restrictions over a part of a Lot Burdened which are reasonably required by the Authority as a condition of the dedication.
- (c) Nothing in this positive covenant is intended to limit the operation of clause 5.6, clause 6.5 and clause 7.5 of this instrument, as applicable.

### **16.2 Name of person empowered to release, vary or modify restriction or positive covenant numbered 11 in the plan.**

Infrastructure NSW, in respect of any release.

Infrastructure NSW and the Grantors of this positive covenant in respect of any variation or modification.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 28 of 29)

Plan: Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]  
Covered by Subdivision Certificate No.  
Dated:

---

**17 Easement for Public Access (PA#) numbered 12 in the Plan**

**17.1 Grant**

Subject to clause 17.3, the owner of the freehold of the Lot Burdened grants to the Grantee, its Authorised Users and all members of the public, an unrestricted right to pass and repass over the Easement Site on the Lot Burdened:

- (a) on foot; and
- (b) with wheelchairs and other disabled access aids.

**17.2 Prohibitions**

The Grantor must not obstruct the use of the Easement Site on the Lot Burdened.

**17.3 Limitations on Easement Site**

Despite any other provision of this clause 17, the rights and obligations of the Grantee and the Grantor under this easement are limited as follows (and each restriction may apply individually):

- (a) the rights and obligations do not commence in respect of a part of the Easement Site unless and until that part of the Easement Site is the subject of an interim or final occupation certificate under the *Environmental Planning and Assessment Act 1979* (NSW) in respect of the works that are or are intended to be undertaken on the relevant part of the Easement Site; and
- (b) the rights and obligations do not apply in respect of a part of the Easement Site and are suspended for any period during which the Grantor considers acting reasonably that access to that part of the Easement Site would be unsafe, and in this regard the Grantor must (if requested) permit Infrastructure NSW to have reasonable access to the relevant Easement Site to repair or make safe the unsafe part of the Easement Site.

*Certified correct for the purposes of the Real Property Act 1900*

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or releases and Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to section 88B of the Conveyancing Act 1919**

(Sheet 29 of 29)

Plan:

Subdivision of Lot 500 in DP [ ] and  
Easements within Lots [ ] in DP [ ]

Covered by Subdivision Certificate No.  
Dated:

**SIGNED** by )  
the )  
of **INFRASTRUCTURE NSW** in the )  
presence of: )  
)

.....  
Signature of witness

.....  
Signature of

.....  
Name of witness (block letters)

**[Drafting Note: As, per the drafting note on page 1. This will need to reflect the relevant registered proprietor of Lot 500 at the time that this s88B instrument is lodged]**