

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON THE USE  
OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT 1919**

Lengths are in metres

(Sheet 4 of 14 Sheets)

Plan:

DP 879222

Subdivision covered by Council Clerk's  
Certificate No. 3711998  
dated 11.9.1998

|                                 |   |   |
|---------------------------------|---|---|
| 9                               | Identity of easement, restriction or positive covenant numbered nine in the Plan: | Right of Footway variable width   |
| Schedule of Lots, etc. affected |   |   |
| Lot Burdened                    |   | Lot and Authority Benefited   |
| Lot 2 57623                     |   | Lot 1, Lot 2 in DP 879223 and Sydney City Council<br>57623 + Pt 2 61766 + 57624 |

|                                 |  |   |
|---------------------------------|--|---|
| 10                              | Identity of easement, restriction or positive covenant numbered ten in the Plan: | Easement for Use of Lift  |
| Schedule of Lots, etc. affected |  |   |
| Lot Burdened                    |  | Lot and Authority Benefited   |
| Lot 2 57623 + Pt 2 61766        |  | Lot 1, Lot 2 in DP 879223 and Sydney City Council<br>57623 + Pt 2 61766 + 57624 |

|  |   |                     |
|--|---|---------------------|
| 11   | Identity of easement, restriction or positive covenant numbered eleven in the Plan: | Positive Covenant   |
| Schedule of Lots, etc. affected            |   |                     |
| Lot Burdened                               |   | Authority Benefited |
| Lots 1 and 2<br>57623 + 57623 + Pt 2 61766 |   | Sydney City Council |

..... J. Richard .....  
Council Authorised Person

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Certificate No. 37/1998

dated 11-9-1998

**PART 2**

**The following are definitions in respect of defined words used in Part 2 of this instrument:**

**Authorised Users** means every person authorised by the Grantee for the purposes of any easement created by this instrument (including, without limitation, the Grantee's tenants, employees, agents, contractors and licensees).

**Council** means the Council of the City of Sydney.

**Fire Escapes** has the meaning given to that term in the easement numbered four in this instrument.

**Governmental Agency** means any government, semi or local government, statutory, public or other authority.

**Grantee** means:

- (a) the owner of an estate in fee simple of the lot benefited; and
- (b) the owners corporation and any lessee under a lot lease in a leasehold strata scheme registered (in respect of the lot benefited) under the Strata Schemes (Leasehold Development) Act 1986; and
- (c) any person taking an interest from the persons referred to in paragraphs (a) and (b).

Where applicable, Grantee includes an authority benefited.

**Grantor** means:

- (a) the owner of an estate in fee simple of the lot burdened; and
- (b) the owners corporation and any lessee under a lot lease in a leasehold strata scheme registered (in respect of the lot burdened) under the Strata Schemes (Leasehold Development) Act 1986.

If a leasehold strata plan is registered over the lot burdened, a reference to the Grantor's nominee in an easement, means a person appointed by the owners corporation established on registration of that plan.

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

**Stormwater Facilities** has the meaning given to that term in the covenant numbered 11 in the Plan.

**Strata Management Statement** means a strata management statement registered with a strata plan registered over any of the lots in the Plan.

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**Trust Land** means land owned by the Royal Botanic Gardens and Domain Trust identified as Auto  
Consol 15279-41, known as the Royal Botanic Gardens and Domain.

**Interpretation**

The terms of this instrument are covenants and agreements between the 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 the 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 benefit and burden of this easement.

**1 Terms of Easement for Support and Shelter numbered one in the Plan**

- 1.1 An easement for support and shelter in the terms of that under section 8(1)(c)-(d) of the Strata Schemes (Leasehold Development) Act 1986 is created.
- 1.2 If a Strata Management Statement is registered and an easement for support is created under the Strata Schemes (Leasehold Development) Act 1986, this easement lapses without further assurance while that Strata Management Statement remains registered.

**2 Terms of Easement for Services numbered two in the Plan**

- 2.1 An easement for services in the terms of that under section 9 of the Strata Schemes (Leasehold Development) Act 1986 is created in respect of all wires, cables, pipes, conduits, equipment and other structures and things relating to services which, at the later of the time of registration of this instrument or a Strata Management Statement, pass through or are situated in the Lot Burdened and service the Lot Benefited.
- 2.2 The provisions of Schedule 1 of the Strata Schemes (Leasehold Development) Act 1986 are varied as follows:
  - (a) except in an emergency the Grantee or Authorised User must give to the Grantor or its nominee not less than 48 hours notice of the intention to enter the Lot Burdened;
  - (b) if required by the Grantor, when exercising access rights the Grantee or Authorised User be accompanied by, and comply with the directions of, the Grantor's nominee;
  - (c) in an emergency, the Grantee or Authorised User must give the Grantor notice of access, if practicable; and

  
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**9 Terms of Right of Footway variable width numbered nine in the Plan**

- 9.1 The Grantor grants to the Grantee and Authorised Users the right to pass and repass on foot, without animals or vehicles, over the parts of the Lot Burdened shown as Right of Footway variable width on the Plan for the purpose of passing through the Lot Burdened on the condition that the Grantee or Authorised User must cause as little inconvenience as practicable to the Grantor and any occupier of the Lot Burdened.
- 9.2 The rights of Sydney City Council under this easement will not be exercisable during any period in which Sydney City Council agrees with the Grantor to restrict access over the site of easement.

**10 Terms of Easement for Use of Lift numbered 10 in the Plan**

- 10.1 Subject to paragraphs 10.2 to 10.4, the Grantor grants to the Grantee and Authorised Users the right to use, in common with the Grantor, the lift in that part of the Lot Burdened shown as Easement for Use of Lift on the Plan.
- 10.2 The right of Sydney City Council to use the lift is limited to access to and from the ground floor level and the rooftop level of the building erected on the Lot Burdened and only for the purpose of enabling persons who are disabled, infirm or otherwise in need of lift access to gain access to and from Trust Land on the following conditions:
- (a) the Grantee and Authorised Users must make prior arrangements (giving reasonable notice) with the Grantor or Grantor's nominee to use the elevator; and
  - (b) the Grantee and Authorised Users must cause as little inconvenience as practicable to the Grantor and any occupier of the Lot Burdened.
- 10.3 The right of the owner of Lot 1 in the Plan to use the lift is limited to access to and from the basement level, the ground floor and the rooftop level of the building erected on the Lot Burdened on the condition that the Grantee and Authorised Users must cause as little inconvenience as practicable to the Grantor and any occupier of the Lot Burdened.
- 10.4 The right of the owner of Lot 2 in DP 879223 to use the elevator is limited to access to and from the ground floor level and the rooftop level of the building erected on the Lot Burdened on the condition that the Grantee and Authorised Users must cause as little inconvenience as practicable to the Grantor and any occupier of the Lot Burdened.

  
Council Authorised Person