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AN888798

File 28/10

# TRANSFER GRANTING EASEMENT



AN888804Y

New South Wales  
Real Property Act 1900

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) TORRENS TITLE

Servient Tenement Lot 2 in DP 1244925 4/1208329 AS REWARDS PART BEING LOT 2 IN DP 1244925 TO BE 2/1244925	Dominant Tenement Lot 4 in DP 1244925 4/1208329 AS REGARDS PART BEING LOT 4 IN DP 1244925 TO BE 4/1244925
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(B) LODGED BY

Document Collection Box 421X	Name, Address or DX, Telephone, and Customer Account Number if any 1232924 Hunt, Hunt DX 214 SYDNEY Reference: ESB 9622603	CODE TG
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(C) TRANSFEROR

Minister for Education ABN 40 300 173 822
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(D) The transferor acknowledges receipt of the consideration of \$nil  
and transfers and grants—

(E) DESCRIPTION  
OF EASEMENT

Right of access and easement for services 6m wide within the area marked "A" being the site of the easement on the plan in Annexure "B" terms
--

(F) out of the servient tenement and appurtenant to the dominant tenement.  
Encumbrances (if applicable):

(G) TRANSFEREE

Schofields Nominee No.5 Pty Ltd ACN 616 237 195
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DATE 27.11.2018

(H) I certify that I am an eligible witness and that an authorised officer of the transferor signed this dealing in my presence.  
[See note\* below]

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness: *Hannah Edwards*

Signature of authorised officer: *Rob Fray*

Name of witness: Hannah Edwards

Authorised officer's name: Rob Fray

Address of witness: 259 George Street, NSW

Authority of officer: Group Director, Property & Facilities  
Signing on behalf of: Minister for Education ABN 40 300 173 822

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

delegated under sections 119 & 125 Education Act 1990

Company: Schofields Nominee No.5 Pty Ltd ACN 616 237 195  
Authority: section 127 of the Corporations Act 2001

Signature of authorised person: *Lara Beth Mulligan*

Name of authorised person: Lara Beth Mulligan  
Office held: Sole Director/Secretary

Edward Edwards, EDWARDS SCHOOLS BOYS, SOLICITOR, I AM AUTHORIZED BY THE PARTIES TO MAKE THESE 3 OFFICES 29.01.2019

### **Annexure "A" to the Transfer Granting Easement**

Transferor: Minister for Education ABN 40 300 173 822

Transferee: Schofields Nominee No.5 Pty Ltd ACN 616 237 195

Servient Tenement  
(**Lot Burdened**): Folio Identifier 2/1244925

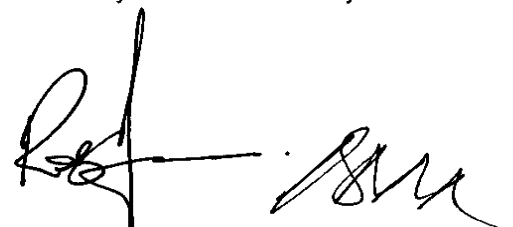
Dominant Tenement  
(**Lot Benefitted**): Folio Identifier 4/1244925

27.11.2018

#### **Terms of right of access and easement for services 6 wide**

##### **1.1 Terms of right of access and easement for services 6 wide**

- (a) The Owner of the Lot Benefitted has at all times the right of access to pass and repass across the Lot Burdened but only within the Site, with or without vehicles, to get to or from the Lot Benefitted and may do anything reasonably necessary for that purpose, including without limitation:
  - (i) constructing, erecting, laying, installing and maintaining a road and associated infrastructure on all or any part of the Site using such materials and adopting such construction methodology as determined by the Owner of the Lot Benefitted from time to time;
  - (ii) undertaking any grading, battering and other associated works to the Site to facilitate construction of a road and associated infrastructure and/or to otherwise facilitate the exercise of rights under this right of access and easement for services;
  - (iii) remaining on the Site for such reasonable time as may be necessary in the circumstances;
  - (iv) taking anything on to the Site for purposes associated with the rights and under this right of access and easement for services; and
  - (v) carrying out work to the Site for purposes associated with the rights under this right of access and easement for services including without limitation the right:
    - (1) to lay, place, construct, inspect, clean, repair, maintain or renew the works or any part of them; and
    - (2) to open the soil of the Site to the extent as may be necessary for these purposes.
- (b) In exercising those powers, the Owner of the Lot Benefitted must:
  - (i) comply with applicable laws and development approvals concerning the use of the Site;
  - (ii) cause as little inconvenience as is reasonably practicable to the Owner and any occupier of the Lot Burdened;
  - (iii) cause as little damage as is reasonably practicable to the Lot Burdened and any improvement on it; and
  - (iv) restore any damage it causes to the Lot Burdened as nearly as is reasonably practicable to its former condition.



- (c) Users of this right of access and easement for services may not park any vehicle, or leave any plant, equipment or other belongings, on the Site at any time other than as reasonably necessary to facilitate the exercise of rights under this right of access and easement for services.
- (d) The Owner of the Lot Benefitted has at all times the unrestricted right to install and maintain Services on the Site to provide Services to or from the Lot Benefitted and may do anything reasonably necessary for that purpose, including without limitation:
  - (i) constructing, erecting, laying, installing, attaching or placing and maintaining pipes, wires and conduits on, in or under the Site for the purposes of the storage or passage of a Service;
  - (ii) entering the Site in such manner as is reasonable in the circumstances;
  - (iii) remaining on the Site for such reasonable time as may be necessary in the circumstances;
  - (iv) taking anything on to the Site for purposes associated with the rights and under this right of access and easement for services; and
  - (v) carrying out work to the Site for purposes associated with the rights under this right of access and easement for services including without limitation the right:
    - (1) to lay, place, construct, inspect, clean, repair, maintain or renew the works or any part of them; and
    - (2) to open the soil of the Site to the extent as may be necessary for these purposes.
- (e) In exercising the powers conferred by this easement for services, the Owner of the Lot Benefitted must:
  - (i) comply with applicable laws and development approvals concerning the use of the Site;
  - (ii) ensure that all work is done properly and in accordance with relevant laws;
  - (iii) cause as little inconvenience as is reasonably practicable to the Owner and any lawful occupier of the Lot Burdened; and
  - (iv) restore any damage it causes to the Lot Burdened as nearly as is reasonably practicable to its former condition; and
  - (v) make good any collateral damage caused by the Owner of the Lot Benefitted.
- (f) The rights in and obligations on the Owner of the Lot Benefitted in this right of access and easement for services extend to every Authorised Person.
- (g) Subject to clause 1.1(b), the Owner of the Lot Burdened must at its cost maintain the Site.
- (h) The name of the person or Authority having the power to release, vary or modify this right of access and easement for services is:
  - (i) for a variation or modification to this Instrument, the Owner of the Lot Benefitted and the Owner of the Lot Burdened jointly; and
  - (ii) for release in accordance with this Instrument, subject to clause 1.1(i), the Owner of the Lot Benefitted.

- (i) This right of access and easement for services will terminate and be released on the day that Public Road Access is activated.
- (j) Any Services installed by or on behalf of the Owner of Lot Benefitted remain at all times (as between that Owner and the Owner of the Lot Burdened) the property of the Owner of Lot Benefitted. The Owner of Lot Benefitted is responsible for the maintenance, repair and replacement of the Services at its cost.
- (k) The Owner of the Lot Burdened is not liable for any damage or injury to any Services installed by the Owner of Lot Benefitted except to the extent that any such damage or injury is caused or contributed to by any act, omission, breach of the terms of this right of access and easement for services or negligence of the Owner of the Lot Burdened or its employees, contractors or invitees.
- (l) The Owner of the Lot Burdened agrees to:
  - (i) not disturb or interfere with any Services or other works installed on the Site by on behalf of the Owner of the Lot Benefitted;
  - (ii) keep the Site clear and free from rubbish at all times;
  - (iii) keep grass and other vegetation on or immediately near the Site cut and reasonably maintained so as not interfere with the Owner of the Lot Benefitted exercising its rights under this right of access and easement for services; and
  - (iv) not to object to any Development Application and promptly upon written request by the Owner of the Lot Benefitted, provide written consent to any Development Application.
- (m) The Owner of the Lot Burdened agrees to impose a condition in any agreement or dealing the Owner of the Lot Burdened enters into on or after the date of registration of this Instrument in which the Owner of the Lot Burdened transfers or mortgages any or all of the Lot Burdened, requiring the transferee acquiring any or all of the Lot Burdened and/or requiring the mortgagee of any or all of the Lot Burdened to covenant by deed poll in favour of the Owner of the Land Benefitted to carry out and comply with any positive obligations of the Owner of the Lot Burdened under this Instrument, such covenant to be effective on and from the date the transferee is or is entitled to become the registered proprietor of any or all of the Lot Burdened or the date the mortgagee is or is entitled to become the registered mortgagee of any or all of the Lot Burdened (as the case may be).

## **2. Notices**

### **2.1 General**

A notice, demand, certification, process or other communication relating to this Instrument must be in writing in English and may be given by the sender, any authorised representative of the sender or an agent or legal representative of the sender.

### **2.2 How to give a communication**

In addition to any other lawful means, a communication may be given by being:

- (a) personally delivered;
- (b) left at the party's current address for notices;
- (c) sent to the party's current address for notices by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;

- (d) sent by fax to the party's current fax number for notices; or
- (e) sent by email to the party's current email address for notices.

In the case of a notice, demand, certification, process or other communication relating to this Instrument to the Owner of the Lot Benefitted, such notice, demand, certification, process or other communication must be sent by email to the Owner of the Lot Benefitted's current email address for notices.

## **2.3 Particulars for delivery of notices**

- (a) The particulars for delivery of notices are initially:

### **Owner of Lot Burdened**

Address: Level 8, 259 George Street, Sydney NSW 2000  
Attention: Director Commercial Transactions, School Infrastructure NSW  
Email Address: Colin.Constantinou@det.nsw.edu.au

### **Owner of Lot Benefitted**

Address: Suite 1, The Upper Deck, 26-32 Pirrama Road, Jones Bay Wharf  
Sydney NSW 2000  
Attention: The Directors  
Email Address: lara@catalinadevelopments.com.au

- (b) Each party may change its particulars for delivery of notices by notice to each other party.

## **2.4 Communications by post**

Subject to clause 2.7, a communication is given if posted:

- (a) within Australia to an Australian address, three Business Days after posting; or
- (b) in any other case, ten Business Days after posting.

## **2.5 Communications by fax**

Subject to clause 2.7, a communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

## **2.6 Communications by email**

Subject to clause 2.7, a communication is given if sent by email, the day the email is sent unless the sender receives an automated message that the email has not been received

## **2.7 After hours communications**

If a communication is given:

- (a) after 5.00pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

## **2.8 Process service**

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this Instrument may be served by any method contemplated by this clause 2 or in accordance with any applicable law.

## **3 General**

### **3.1 Amendment**

This Instrument may only be varied or replaced by an Instrument executed by the parties.

### **3.2 Governing law and jurisdiction**

- (a) This Instrument is governed by and is to be construed in accordance with the laws applicable in New South Wales.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

## **4. Definitions and interpretation**

### **4.1 Definitions**

The following definitions apply to this Instrument:

**Authority** includes:

- (a) any government in any jurisdiction, whether federal, state, territorial or local;
- (b) any provider of public utility services, whether statutory or not;
- (c) any other person, authority, instrumentality or body having jurisdiction, rights, powers, duties or responsibilities over any Lot in the Plan.

**Authorised Person** means any person authorised by the Owner of the Lot Benefitted to use or enjoy the benefits of the right of access and easement for services contained in this Instrument.

**Development Application** means any applications or modifications to any relevant Authority seeking approval for the development and/or rezoning of the Lot Benefitted, which may be in conjunction with other properties, made by or on behalf of the Owner of the Lot Benefitted.

**Easement Plan** means the plan contained at Annexure "B" of this Instrument.

**Instrument** means this transfer granting easement.

**Lot** means a lot in the Plan.

**Lot Benefitted** means Lot 4 in the Plan.

**Lot Burdened** means Lot 2 in the Plan.

**Owner** means an owner of a Lot and its successors and assigns.

**Plan** means the registered plan in respect of which this Instrument has been registered.

**Public Road Access** means operable public road access for the Lot Benefitted which public road:

- (a) has contiguous 18m wide connectivity to the western boundary of the Lot Benefitted across Lot 1 in the Plan; and
- (b) otherwise provides direct public road access to and from a main arterial road (such as Farmland Drive, Schofields Road and/or existing Pelican Road) to and from the Lot Benefitted.

**Services** means all services usually connected to residential buildings including without limitation telephone, data, communications, electricity, gas, water, sewerage, drainage, storm water, sullage, fluid wastes, fire safety, ventilation, air conditioning, garbage, mechanical, hydraulic and any other services required for any development of the Lot Benefitted.

**Site** means the part of the Lot Burdened marked 'A' – Right of Access & Easement for Services 6 Wide on the Easement Plan which is burdened by the right of access and easement for services contained in this Instrument.

#### **4.2 Construction**

Unless expressed to the contrary, in this Instrument:


- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and
- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or Authority;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.

#### **4.3 Headings**

Headings do not affect the interpretation of this Instrument.

**Signature of Transferor:**

I certify that I am an eligible witness and that an authorised officer of the transferor signed this dealing in my presence.

  
Signature of witness

Hannah Edwards  
Name of witness

259 George Street, Sydney  
Address of witness  
NSW

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below:

  
Signature of authorised officer

Rob Fraser  
Authorised officer's name

Group Director, Property & Facilities  
Authority of officer  
management

Signing on behalf of **Minister for Education**  
ABN 40 300 173 822

*delegated under sections 119 & 125 Education Act 1990*

**Signature of Transferee:**

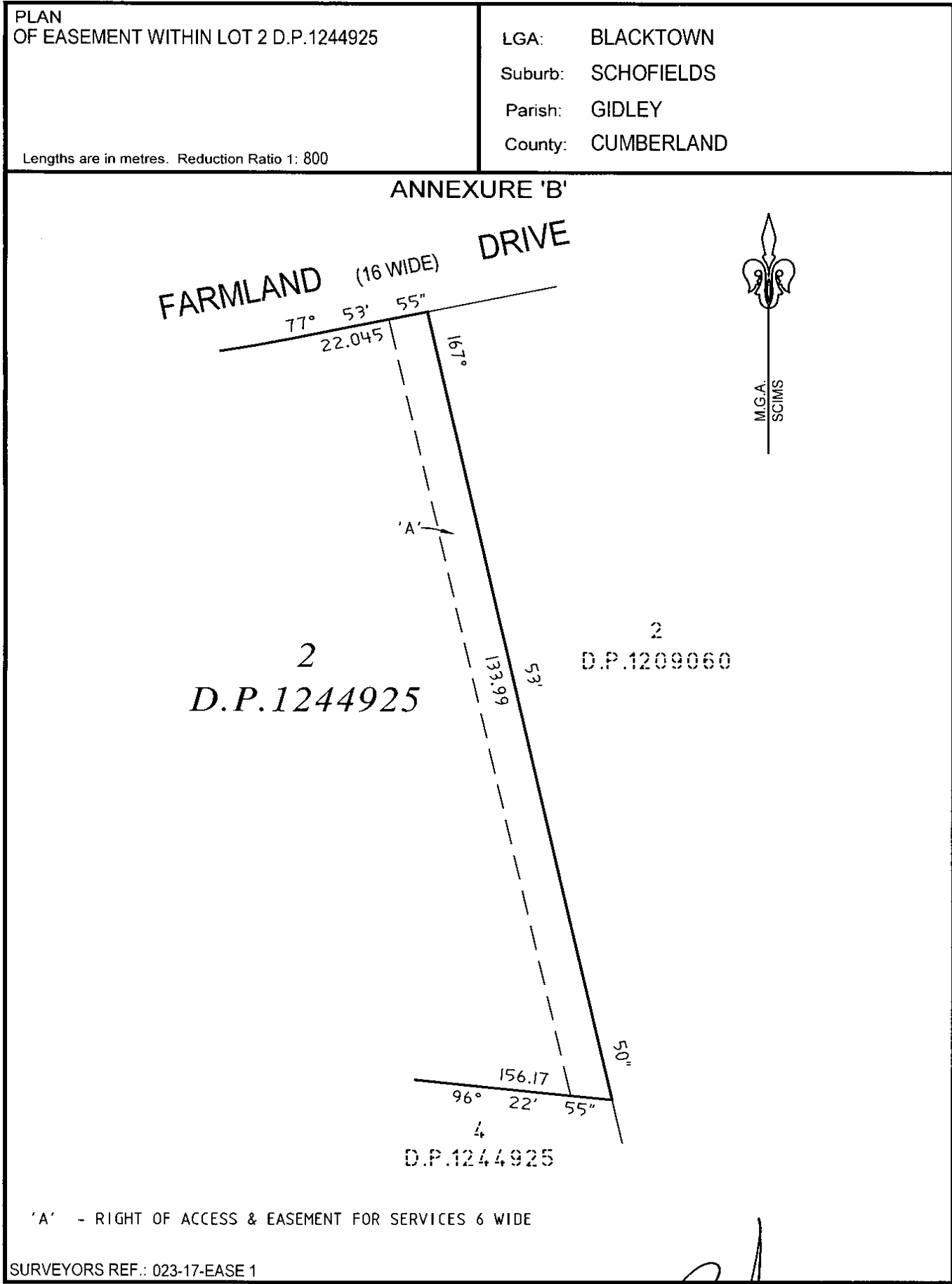
Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person whose signature appears below pursuant to the authority specified:

Company: **Schofields Nominee No.5 Pty Ltd** ACN 616 237 195  
Authority: Section 127 of the Corporations Act 2001 (Cth):

  
Signature of authorised person

**Lara Beth Mulligan**  
Sole Director/Secretary





*[Handwritten signatures]*

CAD REF: Z:\023-17\CR\_PLANS\023-17G S05 [01] - A.K.P. - A.T.