



# *Government Gazette*

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# GOVERNMENT NOTICES

## TRANSPORT ADMINISTRATION ACT 1988

### LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

#### **Notice of Compulsory Acquisition of Land in the Local Government Areas of Blacktown and the Hills Shire**

Sydney Metro by its delegate declares, with the approval of Her Excellency the Governor, that the land and interests described in the schedules below are acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* as authorised by section 38C of the *Transport Administration Act 1988* for the purposes of the *Transport Administration Act 1988*.

Jon Lamonte  
Chief Executive  
Sydney Metro

#### **SCHEDULE 1**

All those pieces of land situated in the Local Government Area of Blacktown, Parish of Gidley and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising Part Lot 8 in DP1078760, being land in Certificate of Title 8/1078760 and shown as Lot 111 in DP1250359.

#### **SCHEDULE 2**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising:

1. Part Lot 2 in DP1246514, being land in Certificate of Title 2/1246514, shown as Lot 132 in DP1250868, but excluding the easement for transmission line created by G592643.
2. Part Lot 1 in DP1246514, being land in Certificate of Title 1/1246514, shown as Lot 133 in DP1250868, but excluding the easement for transmission line created by G592643.

#### **SCHEDULE 3**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Sydney Metro, comprising:

1. Part Lot 31 in DP1071715, being land in Certificate of Title 31/1071715, shown as Lot 130 in DP1250868.

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2. Part Lot 32 in DP1071715, being land in Certificate of Title 32/1071715, shown as Lot 131 in DP1250868.

#### **SCHEDULE 4**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising:

1. Part Lot 11 in DP844963, being land in Certificate of Title 11/844963, shown as Lot 10 in DP1248362.
2. Part Lot 27 in DP844963, being land in Certificate of Title 27/844963, shown as Lot 150 in DP1249488.

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## SCHEDULE 5

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (A);
2. Easement for Electrolysis (D);
3. Easement for Drainage (E); and
4. Easement for Support and Shelter (F),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, comprising that part of existing Lot 11 in DP844963 shown and denoted by the letters above on Lot 11 in DP1248362, said to be in the possession of the Roads and Maritime Services.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

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**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan DP1248362 registered 18 December 2018.

**Rail Corridor** means the rail corridor identified on the land in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;
- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;

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- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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### **2. Easements are covenants and agreements between Grantees and Grantors**

#### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

#### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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### **3. Terms of Easement for Access**

#### **3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any

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purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and

- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
- (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
- (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
- (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantee must notify the Grantor in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantor a reasonable period to rectify that damage;
- (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
  - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
  - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

### **3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and
- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to

be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

#### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;
- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4

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If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

**3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

**3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**4. Terms of Easement for Electrolysis**

**4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

**4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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**5. Terms of Easement for Drainage**

**5.1 Easement to Drain Water**

The Grantor grants to the Grantee, its successors and assigns and all Authorised Users the right to:

- (a) use the Lot Burdened for the drainage of water;
- (b) use, for the purposes of this easement, any line of pipes already laid within the Lot Burdened for the drainage of water or any pipe or pipes in replacement, substitution or alteration of that line of pipes;

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- (c) drain water through the aforesaid line of pipes into and out of the Drainage Pit and across the Lot Burdened to any road or waterway adjacent to the Lot Burdened; and
- (d) do anything reasonably necessary for that purpose including:
  - (i) entering the Lot Burdened;
  - (ii) using any Apparatus through, within, under or above the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, inspecting, testing, repairing, replacing, altering, cleaning or maintaining the Apparatus including relocating the Apparatus to a different location within the Lot Burdened,

provided the Grantee and its Authorised Users cause as little inconvenience as is practicable to the Grantor, make good any collateral damage and restore the Lot Burdened as nearly as practicable to its original condition.

## **5.2 Grantor right to relocate Apparatus**

The Grantor may from time to time relocate the Apparatus, at its cost, provided that:

- (a) the Grantor gives to the Grantee at least 7 days prior written notice of the proposed relocation of Apparatus including details of the new location and specifications of the relocated line or pipes;
- (b) in relocating the Apparatus, the Grantor does not interfere with the Grantee's drainage of water across the Lot Burdened into and out of the Drainage Pit and to the adjoining road or waterway;
- (c) the Grantor maintains:
  - (i) a system of drainage of water from the Benefitted Lot to the Drainage Pit and from the Drainage Pit to an adjacent road or waterway of a standard and capacity equivalent to the standard and capacity of the line of pipes which previously existed; and
  - (ii) the Drainage Pit on the Lot Burdened, at all times to a standard and capacity capable of holding and draining the water draining from the Lot Benefitted.

## **5.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

## **5.4 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**6. Terms of Easement for Support and Shelter**

**6.1 Easement for support and shelter**

The Grantor grants the Grantee the right for the Lot Benefited to be supported by the Lot Burdened to the extent that the Lot Benefited derives support and shelter from the Lot Burdened.

**6.2 Obligations of the Grantor**

The Grantor must maintain the support to that part of the Lot Burdened which is capable of affording support to the Lot Benefited at all times.

**6.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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## SCHEDULE 6

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (D); and
2. Easement for Electrolysis (F),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of the Roads and Maritime Services, comprising:

- (i) that part of existing Lot 2 in DP1246514 shown and denoted by the letters above in Lot 136 in DP1250868: and
- (ii) that part of existing Lot 1 in DP1246514 shown and denoted by the letters above in Lot 137 in DP1250868.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and

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(b) an Authority benefited.

**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan 1250868 registered 20 March 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;
- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

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- (g) "includes" in any form is not a word of limitation;
- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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## **2. Easements are covenants and agreements between Grantees and Grantors**

### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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## **3. Terms of Easement for Access**

### **3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

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- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and
- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
  - (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
  - (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
  - (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantee must notify the Grantor in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantor a reasonable period to rectify that damage;
  - (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
    - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
    - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

### **3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and
- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.
- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

#### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;
- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and

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- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4

If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

### **3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

### **3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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## **4. Terms of Easement for Electrolysis**

### **4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
- (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

### **4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

## SCHEDULE 7

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (D); and
2. Easement for Electrolysis (F),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of the Sydney Metro, comprising:

- (i) that part of existing Lot 31 in DP1071715 shown and denoted by the letters above in Lot 134 in DP1250868: and
- (ii) that part of existing Lot 32 in DP1071715 shown and denoted by the letters above in Lot 135 in DP1250868.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

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**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan 1250868 registered 20 March 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;
- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;
- (h) one provision of this easement does not limit the effect of another; and

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- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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## **2. Easements are covenants and agreements between Grantees and Grantors**

### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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## **3. Terms of Easement for Access**

### **3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any purpose including to access, inspect, maintain, repair, alter, operate and replace

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the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and

- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
- (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
- (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
- (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantee must notify the Grantor in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantor a reasonable period to rectify that damage;
- (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
  - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
  - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

### **3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and
- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to be developed in any way so as to prevent, restrict, reduce or prejudice the

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Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

#### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;
- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4

If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

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**3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

**3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**4. Terms of Easement for Electrolysis**

**4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

**4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

(Sydney Metro Document Number: SM-19-00144771)

**TRANSPORT ADMINISTRATION ACT 1988**

**LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991**

**Notice of Compulsory Acquisition of Land in the Local Government Area of the Hills Shire**

Sydney Metro by its delegate declares, with the approval of Her Excellency the Governor, that the land and interests described in the schedules below are acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* as authorised by section 38C of the *Transport Administration Act 1988* for the purposes of the *Transport Administration Act 1988*.

Jon Lamonte  
Chief Executive  
Sydney Metro

**SCHEDULE 1**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Sydney Metro, comprising:

1. Part Lot 1 in DP1067179, being land in Certificate of Title 1/1067179, shown as Lot 2105 in DP1249378.
2. Part Lot 2 in DP1067179, being land in Certificate of Title 2/1067179, shown as Lots 2103 and 2126 in DP1249378.
3. Part Lot 12 in DP1031575, being land in Certificate of Title 12/1031575, shown as Lot 2125 in DP1249378.

**SCHEDULE 2**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising:

1. Part Lot 3 in DP1067179, being land in Certificate of Title 3/1067179, shown as Lot 2104 in DP1249378.
2. Part Lot 4 in DP1067179, being land in Certificate of Title 4/1067179, shown as Lots 2102 and 2127 in DP1249378.
3. Part Lot 34 in DP1031575, being land in Certificate of Title 34/1031575, shown as Lots 2101 and 2124 in DP1249378.
4. Part Lot 23 in DP1031575, being land in Certificate of Title 23/1031575, shown as Lot 2106 in DP1249378.

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5. Part Lot 31 in DP1031575, being land in Certificate of Title 31/1031575, shown as Lot 2107 in DP1249378.
6. Part Lot 30 in DP1031575, being land in Certificate of Title 30/1031575, shown as Lot 2109 in DP1249378.
7. Part Lot 29 in DP1031575, being land in Certificate of Title 29/1031575, shown as Lot 2111 in DP1249378.
8. Part Lot 28 in DP1031575, being land in Certificate of Title 28/1031575, shown as Lot 2113 in DP1249378.
9. Part Lot 27 in DP1031575, being land in Certificate of Title 27/1031575, shown as Lot 2115 in DP1249378.
10. Part Lot 26 in DP1031575, being land in Certificate of Title 26/1031575, shown as Lot 2117 in DP1249378.
11. Part Lot 14 in DP1031575, being land in Certificate of Title 14/1031575, shown as Lot 2121 in DP1249378.
12. Part Lot 2 in DP1043755, being land in Certificate of Title 2/1043755, shown as Lot 2122 and Lot 2129 in DP1249378.

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### SCHEDULE 3

#### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (A);
2. Easement for Electrolysis (B);
3. Easement for Drainage (C);
4. Easement for Support and Shelter (D),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising:

- (i) those parts of existing Lots 23, 26, 27, 28, 29, 30 and 31 in DP1031575 shown and denoted by the letters above in Lots 2147, 2145, 2143, 2141, 2139 and 2137 respectively in DP1249378; and
- (ii) those parts of existing Lot 2 in DP1043755 shown and denoted by the letters above in Lot 2152 in DP1249378.

#### PART B: TERMS OF INTERESTS

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### 1. Interpretation

#### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and

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- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan 1249378 registered 26 February 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;

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- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;
- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;
- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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## **2. Easements are covenants and agreements between Grantees and Grantors**

### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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**3. Terms of Easement for Access**

**3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and
- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
- (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
- (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
- (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantor must notify the Grantee in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantee a reasonable period to rectify that damage;
- (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
  - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
  - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

**3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and

- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.
- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the

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Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;

- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4.

If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

### **3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

### **3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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## **4. Terms of Easement for Electrolysis**

### **4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

### **4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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**5. Terms of Easement for Drainage**

**5.1 Easement to Drain Water**

The Grantor grants to the Grantee, its successors and assigns and all Authorised Users the right to:

- (a) use the Lot Burdened for the drainage of water;
- (b) use, for the purposes of this easement, any line of pipes already laid within the Lot Burdened for the drainage of water or any pipe or pipes in replacement, substitution or alteration of that line of pipes;
- (c) drain water through the aforesaid line of pipes into and out of the Drainage Pit and across the Lot Burdened to any road or waterway adjacent to the Lot Burdened; and
- (d) do anything reasonably necessary for that purpose including:
  - (i) entering the Lot Burdened;
  - (ii) using any Apparatus through, within, under or above the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, inspecting, testing, repairing, replacing, altering, cleaning or maintaining the Apparatus including relocating the Apparatus to a different location within the Lot Burdened,

provided the Grantee and its Authorised Users cause as little inconvenience as is practicable to the Grantor, make good any collateral damage and restore the Lot Burdened as nearly as practicable to its original condition.

**5.2 Grantor right to relocate Apparatus**

The Grantor may from time to time relocate the Apparatus, at its cost, provided that:

- (a) the Grantor gives to the Grantee at least 7 days prior written notice of the proposed relocation of Apparatus including details of the new location and specifications of the relocated line or pipes;
- (b) in relocating the Apparatus, the Grantor does not interfere with the Grantee's drainage of water across the Lot Burdened into and out of the Drainage Pit and to the adjoining road or waterway;
- (c) the Grantor maintains:
  - (i) a system of drainage of water from the Benefitted Lot to the Drainage Pit and from the Drainage Pit to an adjacent road or waterway of a standard and capacity equivalent to the standard and capacity of the line of pipes which previously existed; and
  - (ii) the Drainage Pit on the Lot Burdened, at all times to a standard and capacity capable of holding and draining the water draining from the Lot Benefitted.

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**5.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

**5.4 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**6. Terms of Easement for Support and Shelter**

**6.1 Easement for support and shelter**

The Grantor grants the Grantee the right for the Lot Benefited to be supported by the Lot Burdened to the extent that the Lot Benefited derives support and shelter from the Lot Burdened.

**6.2 Obligations of the Grantor**

The Grantor must maintain the support to that part of the Lot Burdened which is capable of affording support to the Lot Benefited at all times.

**6.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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## SCHEDULE 4

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (A);
2. Easement for Electrolysis (B);
3. Easement for Drainage (C);
4. Easement for Support and Shelter (D),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Sydney Metro, comprising:

- (i) those parts of existing Lot 12 in DP1031575 shown and denoted by the letters above in Lots 2125 and 2131 in DP1249378;
- (ii) those parts of existing Lot 1 in DP1067179 shown and denoted by the letters above in Lot 2135 in DP1249378; and
- (iii) those parts of existing Lot 2 in DP1067179 shown and denoted by the letters above in Lots 2126 and 2133 in DP1249378.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

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**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan 1249378 registered 26 February 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;

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- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;
- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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## **2. Easements are covenants and agreements between Grantees and Grantors**

### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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### **3. Terms of Easement for Access**

#### **3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and
- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
  - (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
  - (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
  - (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantor must notify the Grantee in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantee a reasonable period to rectify that damage;
  - (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
    - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
    - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

#### **3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and

- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.
- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the

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Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;

- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4.

If the Grantor breaches this clause 3.4 **Error! Reference source not found.**, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

### **3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

### **3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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## **4. Terms of Easement for Electrolysis**

### **4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

### **4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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## **5. Terms of Easement for Drainage**

### **5.1 Easement to Drain Water**

The Grantor grants to the Grantee, its successors and assigns and all Authorised Users the right to:

- (a) use the Lot Burdened for the drainage of water;
- (b) use, for the purposes of this easement, any line of pipes already laid within the Lot Burdened for the drainage of water or any pipe or pipes in replacement, substitution or alteration of that line of pipes;
- (c) drain water through the aforesaid line of pipes into and out of the Drainage Pit and across the Lot Burdened to any road or waterway adjacent to the Lot Burdened; and
- (d) do anything reasonably necessary for that purpose including:
  - (i) entering the Lot Burdened;
  - (ii) using any Apparatus through, within, under or above the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, inspecting, testing, repairing, replacing, altering, cleaning or maintaining the Apparatus including relocating the Apparatus to a different location within the Lot Burdened,

provided the Grantee and its Authorised Users cause as little inconvenience as is practicable to the Grantor, make good any collateral damage and restore the Lot Burdened as nearly as practicable to its original condition.

### **5.2 Grantor right to relocate Apparatus**

The Grantor may from time to time relocate the Apparatus, at its cost, provided that:

- (a) the Grantor gives to the Grantee at least 7 days prior written notice of the proposed relocation of Apparatus including details of the new location and specifications of the relocated line or pipes;
- (b) in relocating the Apparatus, the Grantor does not interfere with the Grantee's drainage of water across the Lot Burdened into and out of the Drainage Pit and to the adjoining road or waterway;
- (c) the Grantor maintains:
  - (i) a system of drainage of water from the Benefitted Lot to the Drainage Pit and from the Drainage Pit to an adjacent road or waterway of a standard and capacity equivalent to the standard and capacity of the line of pipes which previously existed; and
  - (ii) the Drainage Pit on the Lot Burdened, at all times to a standard and capacity capable of holding and draining the water draining from the Lot Benefitted.

**5.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

**5.4 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**6. Terms of Easement for Support and Shelter**

**6.1 Easement for support and shelter**

The Grantor grants the Grantee the right for the Lot Benefited to be supported by the Lot Burdened to the extent that the Lot Benefited derives support and shelter from the Lot Burdened.

**6.2 Obligations of the Grantor**

The Grantor must maintain the support to that part of the Lot Burdened which is capable of affording support to the Lot Benefited at all times.

**6.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

(Sydney Metro Document Number: SM-19-00148194)

**TRANSPORT ADMINISTRATION ACT 1988**

**LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991**

**Notice of Compulsory Acquisition of Land in the Local Government Area of the Hills Shire**

Sydney Metro by its delegate declares, with the approval of Her Excellency the Governor, that the land and interests described in the schedules below are acquired by compulsory process under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* as authorised by section 38C of the *Transport Administration Act 1988* for the purposes of the *Transport Administration Act 1988*.

Jon Lamonte  
Chief Executive  
Sydney Metro

**SCHEDULE 1**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising:

1. Part Lot 18 in DP1063682, being land in Certificate of Title 18/1063682, shown as Lot 1404 in DP1249937.
2. Part Lot 22 in DP844963, being land in Certificate of Title 22/844963, shown as Lot 1405 in DP1249937.
3. Part Lot 131 in DP1249363, being land in Certificate of Title 131/1249363, shown as Lot 1450 in DP1255091.

**SCHEDULE 2**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Sydney Metro, comprising:

1. Part Lot 13 in DP1184376, being land in Certificate of Title 13/1184376, shown as Lot 1400 in DP1249937.
2. Part Lot 11 in DP1063682, being land in Certificate of Title 11/1063682, shown as Lot 1401 in DP1249937.
3. Part Lot 1 in DP1066762, being land in Certificate of Title 1/1066762, shown as Lot 1402 in DP1249937.

**SCHEDULE 3**

All those pieces of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, comprising Part of Windsor Road road reserve, being

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land in Certificate of Title Volume 4298 Folio 224, Certificate of Title Volume 4262 Folio 148 and Crown road reserve, shown as Lot 201 in DP1248037, said to be in the possession of Roads and Maritime Services and The Hills Shire Council.

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## SCHEDULE 4

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (A);
2. Easement for Electrolysis (B);
3. Easement for Drainage (C);
4. Easement for Support and Shelter (D),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising those parts of existing Lot 18 in DP1063682 shown and denoted by the letters above in Lot 1410 in DP1249937.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

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**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan DP1249937 registered 5 February 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;
- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;

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- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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## **2. Easements are covenants and agreements between Grantees and Grantors**

### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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## **3. Terms of Easement for Access**

### **3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any

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purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and

- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
- (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
- (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
- (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantee must notify the Grantor in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantee a reasonable period to rectify that damage;
- (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
  - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
  - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

### **3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and
- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to

be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

#### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;
- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4.

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If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

**3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

**3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**4. Terms of Easement for Electrolysis**

**4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

**4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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**5. Terms of Easement for Drainage**

**5.1 Easement to Drain Water**

The Grantor grants to the Grantee, its successors and assigns and all Authorised Users the right to:

- (a) use the Lot Burdened for the drainage of water;
- (b) use, for the purposes of this easement, any line of pipes already laid within the Lot Burdened for the drainage of water or any pipe or pipes in replacement, substitution or alteration of that line of pipes;

- (c) drain water through the aforesaid line of pipes into and out of the Drainage Pit and across the Lot Burdened to any road or waterway adjacent to the Lot Burdened; and
- (d) do anything reasonably necessary for that purpose including:
  - (i) entering the Lot Burdened;
  - (ii) using any Apparatus through, within, under or above the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, inspecting, testing, repairing, replacing, altering, cleaning or maintaining the Apparatus including relocating the Apparatus to a different location within the Lot Burdened,

provided the Grantee and its Authorised Users cause as little inconvenience as is practicable to the Grantor, make good any collateral damage and restore the Lot Burdened as nearly as practicable to its original condition.

## **5.2 Grantor right to relocate Apparatus**

The Grantor may from time to time relocate the Apparatus, at its cost, provided that:

- (a) the Grantor gives to the Grantee at least 7 days prior written notice of the proposed relocation of Apparatus including details of the new location and specifications of the relocated line or pipes;
- (b) in relocating the Apparatus, the Grantor does not interfere with the Grantee's drainage of water across the Lot Burdened into and out of the Drainage Pit and to the adjoining road or waterway;
- (c) the Grantor maintains:
  - (i) a system of drainage of water from the Benefitted Lot to the Drainage Pit and from the Drainage Pit to an adjacent road or waterway of a standard and capacity equivalent to the standard and capacity of the line of pipes which previously existed; and
  - (ii) the Drainage Pit on the Lot Burdened, at all times to a standard and capacity capable of holding and draining the water draining from the Lot Benefitted.

## **5.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

## **5.4 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**6. Terms of Easement for Support and Shelter**

**6.1 Easement for support and shelter**

The Grantor grants the Grantee the right for the Lot Benefited to be supported by the Lot Burdened to the extent that the Lot Benefited derives support and shelter from the Lot Burdened.

**6.2 Obligations of the Grantor**

The Grantor must maintain the support to that part of the Lot Burdened which is capable of affording support to the Lot Benefited at all times.

**6.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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## SCHEDULE 5

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (A);
2. Easement for Electrolysis (B);
3. Easement for Drainage (C);
4. Easement for Support and Shelter (D),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Roads and Maritime Services, comprising those parts of existing Lot 131 in DP1249363 shown and denoted by the letters above in Lot 1451 in DP1255091.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

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**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan DP1255091 registered 24 July 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;
- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;

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- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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### **2. Easements are covenants and agreements between Grantees and Grantors**

#### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

#### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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### **3. Terms of Easement for Access**

#### **3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any

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purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and

- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
- (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
- (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
- (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantee must notify the Grantor in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantor a reasonable period to rectify that damage;
- (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
  - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
  - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

### **3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and
- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to

be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

#### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;
- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4.

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If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

**3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

**3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**4. Terms of Easement for Electrolysis**

**4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

**4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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**5. Terms of Easement for Drainage**

**5.1 Easement to Drain Water**

The Grantor grants to the Grantee, its successors and assigns and all Authorised Users the right to:

- (a) use the Lot Burdened for the drainage of water;
- (b) use, for the purposes of this easement, any line of pipes already laid within the Lot Burdened for the drainage of water or any pipe or pipes in replacement, substitution or alteration of that line of pipes;

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- (c) drain water through the aforesaid line of pipes into and out of the Drainage Pit and across the Lot Burdened to any road or waterway adjacent to the Lot Burdened; and
- (d) do anything reasonably necessary for that purpose including:
  - (i) entering the Lot Burdened;
  - (ii) using any Apparatus through, within, under or above the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, inspecting, testing, repairing, replacing, altering, cleaning or maintaining the Apparatus including relocating the Apparatus to a different location within the Lot Burdened,

provided the Grantee and its Authorised Users cause as little inconvenience as is practicable to the Grantor, make good any collateral damage and restore the Lot Burdened as nearly as practicable to its original condition.

## **5.2 Grantor right to relocate Apparatus**

The Grantor may from time to time relocate the Apparatus, at its cost, provided that:

- (a) the Grantor gives to the Grantee at least 7 days prior written notice of the proposed relocation of Apparatus including details of the new location and specifications of the relocated line or pipes;
- (b) in relocating the Apparatus, the Grantor does not interfere with the Grantee's drainage of water across the Lot Burdened into and out of the Drainage Pit and to the adjoining road or waterway;
- (c) the Grantor maintains:
  - (i) a system of drainage of water from the Benefitted Lot to the Drainage Pit and from the Drainage Pit to an adjacent road or waterway of a standard and capacity equivalent to the standard and capacity of the line of pipes which previously existed; and
  - (ii) the Drainage Pit on the Lot Burdened, at all times to a standard and capacity capable of holding and draining the water draining from the Lot Benefitted.

## **5.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

## **5.4 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**6. Terms of Easement for Support and Shelter**

**6.1 Easement for support and shelter**

The Grantor grants the Grantee the right for the Lot Benefited to be supported by the Lot Burdened to the extent that the Lot Benefited derives support and shelter from the Lot Burdened.

**6.2 Obligations of the Grantor**

The Grantor must maintain the support to that part of the Lot Burdened which is capable of affording support to the Lot Benefited at all times.

**6.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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## SCHEDULE 6

### PART A: DESCRIPTION OF INTERESTS

An:

1. Easement for Access (A);
2. Easement for Electrolysis (B);
3. Easement for Drainage (C);
4. Easement for Support and Shelter (D),

affecting parts of land situated in the Local Government Area of The Hills Shire, Parish of Castle Hill and County of Cumberland, said to be in the possession of Sydney Metro, comprising:

- (i) those parts of existing Lot 13 in DP1184376 shown and denoted by the letters above in Lot 1406 in DP1249937;
- (ii) those parts of existing Lot 11 in DP1063682 shown and denoted by the letters above in Lot 1407 in DP1249937; and
- (iii) those parts of existing Lot 1 in DP1066762 shown and denoted by the letters above in Lot 1408 in DP1249937.

### PART B: TERMS OF INTERESTS

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#### 1. Interpretation

##### 1.1 Definitions

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

**Apparatus** means pipes, drainage pit, mains, structures, rain gardens and equipment in connection with the conveyance, transmission, control, drainage, measurement, storage and distribution of stormwater, water overflow and for other incidental purposes.

**Authorised User** means every person authorised by the Grantee for the purposes of an easement, covenant or restriction on use created by this easement, and includes any officers, employees, licensees, agents, workmen and contractors, including the operator of the Rail Infrastructure, of the Grantee.

**Authority** means any governmental or semi-governmental or local government authority administrative or judicial body or tribunal department, commission, public authority, agency, minister statutory corporation or instrumentality, including Transport for NSW and Sydney Metro.

**Costs** includes charges and expenses including those incurred in connection with advisers.

**Easement Site** means, in relation to an easement in this document:

- (a) the site of an easement on the Plan; and
- (b) all items within the site of the easement identified on the Plan which are the subject of the easement.

**Equipment** means all necessary tools, implements, materials, machinery and vehicles.

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**Grantee** means:

- (a) the owner or mortgagee in possession of the Lot Benefited; and
- (b) an Authority benefited.

**Grantor** means the owner or mortgagee in possession of a Lot Burdened.

**Lot Benefited** means a lot benefited by an easement in this document.

**Lot Burdened** means a lot burdened by an easement in this document.

**Member of the Rail Family** means any government department, statutory instrumentality or statutory corporation which has as its function the ownership, operation or management of rail services and includes Transport for NSW and Sydney Metro, and its statutory successors.

**Operations** includes all activities infrastructure and works related to the operation of railway passenger services and any transport services which is additional to or in substitution for any railway service.

**Plan** means Deposited Plan DP1249937 registered 5 February 2019.

**Rail Corridor** means the rail corridor identified on the land comprised in the Plan.

**Rail Infrastructure** means all infrastructure including but not limited to the viaduct, equipment systems, trackwork and support structures for the railway known as Sydney Metro Northwest located in, under, over or adjacent to, the Lot Burdened or the Easement Site from time to time.

**Sydney Metro Northwest** means the railway line from Chatswood to Tallawong Road Rapid Transit Rail Facility, including but not limited to the viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

## 1.2 Headings

Headings do not affect the interpretation of this easement.

## 1.3 Rules of Interpretation

In this easement, and unless the context indicates a contrary intention:

- (a) an obligation or liability assumed by, or a right conferred on, two or more persons including two or more Grantors binds or benefits them jointly and severally;
- (b) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to this easement, to a document or to any other easement (including any approval) is to this easement, that document or that other easement (as the case may be) as amended, modified, varied, novated, ratified or replaced from time to time;
- (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (e) a reference to a clause is a reference to a clause of this easement;

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- (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (g) "includes" in any form is not a word of limitation;
- (h) one provision of this easement does not limit the effect of another; and
- (i) if at any time any provision of this easement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this easement; or
  - (ii) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this easement.

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

A requirement in an easement which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to Section 88BA of the *Conveyancing Act 1919* (NSW).

#### **1.5 No derogation of statutory rights**

The rights granted to the Grantor or the Grantee under this easement do not derogate from any statutory right that Sydney Metro or a Member of the Rail Family may have from time to time.

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## **2. Easements are covenants and agreements between Grantees and Grantors**

### **2.1 Run with Land**

The conditions, covenants and restrictions, including in this clause 2, in each of the easements are covenants and agreements between:

- (a) each Grantee for itself and its successors, assigns and transferees; and
- (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.

### **2.2 Ancillary Rights**

The Grantee of an easement set out in this easement may exercise, subject to the specific terms of that easement, all other ancillary rights and obligations reasonably necessary for the effective application of an easement including reasonable access to the Easement Site. In exercising ancillary rights under an easement, the Grantee must cause as little inconvenience as practicable to the Grantor or any occupier of the Lot Burdened.

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**3. Terms of Easement for Access**

**3.1 Grant of easement**

The Grantor grants the Grantee, its successors and assigns and all Authorised Users the right:

- (a) to full, free and unimpeded right to, by any means, to enter upon, pass and repass over the Lot Burdened at any time together with any Equipment for any purpose including to access, inspect, maintain, repair, alter, operate and replace the Rail Infrastructure provided that the Grantee and its Authorised Users use the most direct and accessible route to and from the Rail Infrastructure; and
- (b) to remain on the Lot Burdened for a reasonable time for such purposes,  
on the following conditions:
- (c) the Grantee must take all reasonable precautions to ensure as little disturbance or damage as possible to the Lot Burdened and will as soon as reasonably practicable restore the Lot Burdened as nearly as practicable to its original condition;
- (d) before the Grantee may enter the Lot Burdened to exercise the rights granted by this easement, it must, except in the case of an emergency, first give a reasonable period of notice to the Grantor of the intended exercise of the rights and comply with the reasonable requirements of the Grantor;
- (e) except in the case of an emergency, before incurring any Costs in rectification of any damage occasioned by the exercise of its rights, the Grantor must notify the Grantee in writing of any damage occasioned as a result of such exercise and, in the case of remediable damage, give the Grantee a reasonable period to rectify that damage;
- (f) if any proposed development or other activity to be carried out by the Grantor on the Lot Burdened will:
  - (i) impact or affect the Grantee's use of, or interest in, the Lot Burdened;  
or
  - (ii) result in the Lot Burdened being inaccessible or substantially inaccessible by the Grantee,

the Grantee may make an objection to the development or other activity and withhold its consent (which may be withheld in its absolute discretion).

**3.2 No restriction on access**

The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor will not, without the prior written approval of the Grantee, permit, allow or cause:

- (a) the access granted to the Grantee, its successors and assigns and Authorised Users over the Lot Burdened and to or from any land adjoining the Lot Burdened pursuant to this easement to be restricted in any way; and

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- (b) anything to be done or omitted to be done which would prevent or prejudice the Grantee and its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.

### **3.3 Restriction on development affecting access**

Without limitation to clause 3.2:

- (a) The Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee, permit, allow or cause the Burdened Lot to be developed in any way so as to prevent, restrict, reduce or prejudice the Grantee or its Authorised Users exercising the rights granted to the Grantee pursuant to this easement.
- (b) Before the Grantor may develop the Lot Burdened, the Grantor must give written notice of its proposed development to the Grantee with sufficient detail of the proposed development (including plans and specifications of the proposed development which demonstrate how the rights of the Grantee under this easement can continue to be exercised) to enable the Grantee to consider whether to approve or reject the proposed development.
- (c) Without limiting the Grantee's rights in clause 3.3(b), the Grantor must obtain the Grantee's approval under this clause:
  - (i) before the Grantor lodges a development application or applies for a complying certificate in respect of any development within the Easement Site, or applies for a modification of any development consent or approval that applies to the Easement Site; and
  - (ii) to the terms of consent to any such development application or consent to an application to modify such development consent (including plans and specifications referred to in such consents).
- (d) The Grantor's consent to the proposed development will not be unreasonably withheld if the proposed development would not prevent, restrict, reduce or prejudice the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement.
- (e) The Grantee's consent under this clause may be granted subject to conditions including for the purpose of minimising any adverse effect on the rights of access granted to the Grantee and its Authorised Users under this easement, and any failure or omission to comply with those conditions in carrying out the proposed development will constitute a breach of this clause.

### **3.4 Restriction on vegetation affecting access**

Without limitation to clause 3.2, the Grantor for itself and its successors and assigns covenants with the Grantee and its successors and assigns that the Grantor must not, without the prior written approval of the Grantee:

- (a) allow any vegetation on the Lot Burdened within the area of 6 metres from the outer edge of the Grantee's Rail Infrastructure other than grass or small shrubs, which shrubs are no higher than 2 metres above natural ground level;
- (b) allow, at all times and without limiting paragraph (a), any vegetation within the Lot Burdened of a height more than the distance of the vegetation to the

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Railway Infrastructure such that there is a risk the vegetation will fall onto the Rail Infrastructure;

- (c) allow any vegetation on the Lot Burdened which prevents, restricts, reduces or prejudices the exercise by the Grantee or its Authorised Users of the Grantee's rights under this easement, and
- (d) the Grantor will immediately rectify, maintain and prune, at its cost, vegetation on the Lot Burdened so that it at all times complies with this clause 3.4.

If the Grantor breaches this clause 3.4, the Grantee or its Authorised Users may, without notice to the Grantor, access the Lot Burdened, with all necessary Equipment, to carry out the necessary works (at the cost of the Grantor) to rectify the Grantor's breach.

### **3.5 Right to Release**

The Grantee is empowered to release, vary or modify this easement.

### **3.6 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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## **4. Terms of Easement for Electrolysis**

### **4.1 Easement for electrolysis**

- (a) The Grantor grants to the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, the right to cause stray electrical currents originating from or in any way connected to its Operations in the Rail Corridor to pass across, above, through or under the Lot Burdened.
- (b) For the benefit of the right granted to the Grantee, the Grantor covenants with the Grantee its successors and assigns, any Member of the Rail Family and all Authorised Users as follows:
  - (i) to waive all rights and remedies which it might otherwise have had against the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, arising out of the exercise of rights under this easement; and
  - (ii) to indemnify the Grantee, its successors and assigns, any Member of the Rail Family and all Authorised Users, against any demand, claim, suit or proceedings which might be made against the Grantee, its successors and assigns and all Authorised Users by any tenant, occupier or user of the Lot Burdened, or any person, including any person claiming through the Grantor or any tenant, occupier or user of the Lot Burdened, arising out of its exercising its rights under this easement.

### **4.2 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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## **5. Terms of Easement for Drainage**

### **5.1 Easement to Drain Water**

The Grantor grants to the Grantee, its successors and assigns and all Authorised Users the right to:

- (a) use the Lot Burdened for the drainage of water;
- (b) use, for the purposes of this easement, any line of pipes already laid within the Lot Burdened for the drainage of water or any pipe or pipes in replacement, substitution or alteration of that line of pipes;
- (c) drain water through the aforesaid line of pipes into and out of the Drainage Pit and across the Lot Burdened to any road or waterway adjacent to the Lot Burdened; and
- (d) do anything reasonably necessary for that purpose including:
  - (i) entering the Lot Burdened;
  - (ii) using any Apparatus through, within, under or above the Lot Burdened; and
  - (iii) carrying out work, such as constructing, placing, inspecting, testing, repairing, replacing, altering, cleaning or maintaining the Apparatus including relocating the Apparatus to a different location within the Lot Burdened,

provided the Grantee and its Authorised Users cause as little inconvenience as is practicable to the Grantor, make good any collateral damage and restore the Lot Burdened as nearly as practicable to its original condition.

### **5.2 Grantor right to relocate Apparatus**

The Grantor may from time to time relocate the Apparatus, at its cost, provided that:

- (a) the Grantor gives to the Grantee at least 7 days prior written notice of the proposed relocation of Apparatus including details of the new location and specifications of the relocated line or pipes;
- (b) in relocating the Apparatus, the Grantor does not interfere with the Grantee's drainage of water across the Lot Burdened into and out of the Drainage Pit and to the adjoining road or waterway;
- (c) the Grantor maintains:
  - (i) a system of drainage of water from the Benefitted Lot to the Drainage Pit and from the Drainage Pit to an adjacent road or waterway of a standard and capacity equivalent to the standard and capacity of the line of pipes which previously existed; and
  - (ii) the Drainage Pit on the Lot Burdened, at all times to a standard and capacity capable of holding and draining the water draining from the Lot Benefitted.

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**5.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

**5.4 No Implied Terms**

The rights and obligations implied under Schedule 4A of the Conveyancing Act 1919 do not apply to this easement.

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**6. Terms of Easement for Support and Shelter**

**6.1 Easement for support and shelter**

The Grantor grants the Grantee the right for the Lot Benefited to be supported by the Lot Burdened to the extent that the Lot Benefited derives support and shelter from the Lot Burdened.

**6.2 Obligations of the Grantor**

The Grantor must maintain the support to that part of the Lot Burdened which is capable of affording support to the Lot Benefited at all times.

**6.3 Right to Release**

The Grantee is empowered to release vary or modify this easement.

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