

Commercial-in-Confidence

NSW.205.029.2169

CLAYTON UTZ

Deed of Sight Lines Resolution

Infrastructure NSW
INSW

Lendlease (Millers Point) Pty Limited
LLMP

Lendlease Corporation Limited
LLC

Crown Sydney Property Pty Limited
Crown

Crown Resorts Limited
Crown Resorts

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Deed of Sight Lines Resolution

Date 18 August 2019

Parties

Infrastructure NSW ABN 85 031 302 516 of Macquarie House, Level 15, 167 Macquarie Street, Sydney NSW 2000 (**INSW**)

Lendlease (Millers Point) Pty Limited of Level 14, Tower 3, International Towers, 300 Barangaroo Avenue, Barangaroo NSW 2000 as trustee of the Lend Lease (Millers Point) Trust ABN 96 367 164 319 (**LLMP**)

Lendlease Corporation Limited ABN 32 000 226 228 of Level 14 Tower 3, International Towers, 300 Barangaroo Avenue, Barangaroo NSW 2000 (**LLC**)

Crown Sydney Property Pty Limited ABN 12 166 326 861 of Level 3, Crown Towers, 8 Whiteman Street Southbank VIC 3000 (**Crown**)

Crown Resorts Limited ABN 39 125 709 953 of Level 3, Crown Towers, 8 Whiteman Street Southbank VIC 3000 (**Crown Resorts**)

Recitals

- A. INSW, LLMP and LLC are parties to the PDA. Clause 2.5 of the PDA contains the Lendlease Sight Lines Provisions.
- B. INSW, Crown, Crown Resorts, LLMP and LLC are parties to the CDA. Clause 5.5 of the CDA contains the Crown Sight Lines Provisions.
- C. INSW has entered into a development agreement with the Central Developer in relation to the development of Central Barangaroo.
- D. As and from 1 July 2019, the BDA has been dissolved and its assets, rights and liabilities (all as defined under the State Revenue and Other Legislation Amendment Act No 8 of 2019 (NSW)) have been transferred to INSW.
- E. Without any admission, all Parties have agreed to settle the various issues and disputes between the Parties in relation to the Sight Lines Provisions and the Sight Lines Proceedings on the terms of this deed.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed capitalised terms and phrases have the same meaning as they have in the PDA or the CDA and are otherwise defined as set out below:

Aggregate Block 4 Developable GFA means the aggregate of:

- (a) the GFA approved for residential use in respect of Barangaroo South under Mod 8; and
- (b) any Approved Additional GFA (Block 4).

Appeal Period means:

- (a) in relation to the Modification Application, the three month period commencing on the date of public notice pursuant to the EP&A Act of the granting of an Approval to the Modification Application; or
- (b) in relation to the Barangaroo South Planning Applications (LLMP), the three month period commencing on the date of public notice pursuant to the EP&A Act of the granting of an Approval to the Barangaroo South Planning Applications (LLMP).

Application means an application for any Approval, including (as required) the plans, specifications, environmental assessment requirements, technical reports and any other documents forming part of or to be submitted in respect of that application.

Approval means any approvals under Part 3A or Part 4 of the Environmental Planning and Assessment Act 1979 (NSW) including any approval relating to a modification of the Barangaroo Concept Plan.

Approved Additional GFA (Block 4) means any Potential Additional GFA (Block 4) approved by any modification of the Concept Plan or any Barangaroo South Planning Application (LLMP) including any GFA which is required for KWH pursuant to an Approval issued in relation to the Modification Application or the Barangaroo South Planning Application (LLMP).

Barangaroo South means that part of Barangaroo known as Barangaroo South.

Barangaroo South Planning Applications (LLMP) means a Development Application and/or any related amendments to Existing Approvals (other than the Modification Applications) in respect of LLMP's development of Barangaroo South to the extent that the Development Application (or related amendments) gives effect to the terms of this deed.

BDA means the Barangaroo Delivery Authority, an authority established under the Barangaroo Delivery Authority Act 2009 and dissolved pursuant to the State Revenue and Other Legislation Amendment Act 2019, which received Royal Assent on 1 July 2019.

Block 4 Envelope means the building envelope (including all lift overruns, structures, services, appurtenances, signage and telecommunications towers or equipment) shown in the plans attached to this deed at Schedule 6.

Block 5, Block 6 and Block 7 are the areas identified as Block 5, Block 6 and Block 7 on the plan of the Central Barangaroo Envelope.

Building R4A means the building approved to be developed on Block 4 within Barangaroo South pursuant to SSD 6964 as at the date of this deed and is the same building referred to in the Concept Plan as Building R4A.

Building R4B means the building approved to be developed on Block 4 within Barangaroo South pursuant to SSD 6965 as at the date of this deed and is the same building referred to in the Concept Plan as Building R4B.

Building R5 means the building proposed to be developed on Block 4 within Barangaroo South pursuant to SSD 6966 as at the date of this deed and is the same building referred to in the Concept Plan as Building R5.

CDA means the "Crown Development Agreement" dated 27 May 2015, entered into between the BDA, LLMP, LLC, Crown and Crown Resorts with respect to the Crown Sydney Integrated Hotel Resort.

Central Barangaroo means that part of Barangaroo known as Central Barangaroo.

Central Barangaroo Planning Application means any modification application in respect of the Concept Plan (other than the Modification Application), development applications and any related amendments to planning instruments and approvals, including amendment to any relevant SEPP or any new or amended planning related legislation where clause 6.1 applies, in relation to Central Barangaroo.

Central Barangaroo Envelope means the building envelope (including all lift overruns, structures, services, appurtenances, signage and telecommunications towers or equipment) for Central Barangaroo shown in the plans attached to this deed at Schedule 1.

Central Developer means any person that is granted or assigned rights to develop any or all of Central Barangaroo.

Community Housing Provider has the same meaning as 'registered community housing provider' as defined in the *Housing Act 2001 (NSW)*.

Concept Plan means the instrument of approval entitled "Determination of the Barangaroo Concept Plan (MPA No 06/0162) approved by the Minister for Planning on 9 February 2007, as amended from time to time.

Crown Sight Lines means the sight lines of Crown referred to in the Crown Sight Lines Provisions.

Crown Sight Lines Provisions means the sight lines provisions as set out in clause 5.5 of the CDA.

Development Application has the same meaning as it does under the *Environmental Planning and Assessment Act 1979 (NSW)*.

Draft Easement for Public Access and Services (Lendlease) means the easement terms in Schedule 3.

Draft Easement for Public Access Crown means the easement terms in Schedule 8.

Existing Approvals means the existing approvals and applications in respect of Building R4A, Building R4B, Building R5, the basement for Stage 1B, the Integrated Hotel Resort and the Public Domain.

Hickson Park means the parkland to be constructed at Barangaroo and known as 'Hickson Park'.

Independent Counsel means a barrister practising in NSW in planning law with at least 15 years' experience who has not previously acted for or on behalf of any of the Parties (unless agreed otherwise by all Parties).

Independent Planning Expert means a planning expert of more than 15 years' experience in New South Wales agreed to by the Parties or nominated in accordance with clause 3.3(f) or clause 4.1(b) who has not previously acted for or on behalf of any of the Parties (unless agreed otherwise by all Parties).

KWH means Key Worker Housing as referred to in the Concept Plan.

Legally Binding Sales means contracts for the sale of land, agreements, options and any other enforceable arrangements between LLMP and another party for the sale of property in respect of residential apartments in Building R4A.

Lendlease Retail Licensed Area means the Retail Category 1 and Retail Category 2 Licensed Areas the subject of the Public Domain Licences.

Lendlease Retail means Lendlease Retail (Barangaroo) Pty Limited (ACN 608 444 515) as trustee for the Lendlease Retail Barangaroo Trust.

Lendlease Sight Lines means the sight lines of LLMP referred to in the Lendlease Sight Lines Provisions.

Lendlease Sight Lines Provisions means the sight lines provisions as set out in clause 2.5 of the PDA.

Mod 8 means the modification of the Concept Plan approved by the Planning Assessment Commission as a delegate of the Minister for Planning on 28 June 2016.

Mod 8 Deed means the "Mod 8 and Hotel Resort DA Deed" entered into between the BDA, LLMP, LLC, Crown and Crown Resorts dated 21 July 2016.

Modification Application means the application for the modification to the Concept Plan and any associated amendment to the SEPP, or any equivalent application or applications to similar effect, seeking the changes to Mod 8 set out in clause 3.2.

Parties means all of INSW, LLMP, LLC, Crown and Crown Resorts.

Party means any one of INSW, LLMP, LLC, Crown and Crown Resorts.

PDA means the "Barangaroo Stage 1 - Project Development Agreement" dated 5 March 2010 between the BDA, LLMP and LLC, as varied from time to time, including by the Fifth Deed of Amendment dated 27 May 2015.

Potential Additional GFA (Block 4) means an amount of up to 8000 square metres of additional Developable GFA:

- (a) proposed in relation to the development of:
 - (i) Building R4A;
 - (ii) Building R4B; and/or
 - (iii) Building R5,

so as to allow changes including the height of the buildings to be increased to a maximum of RL250 and/or the width and shape of the building to be modified;

- (b) over and above the total amount of Developable GFA approved for Block 4 in Mod 8;
- (c) including 3.0% for on-site and off-site KWH GFA; and
- (d) applied for in the Modification Application and the Barangaroo South Planning Application (LLMP).

Public Domain Licences means:

- (a) Public Domain Head Licence - Retail Category 2; and
- (b) Public Domain Head Licence - Retail Category 1,

dated 23 October 2015, between Lendlease Retail and the BDA, in relation to the Lendlease Retail Licensed Area.

Responsible Minister means the NSW Minister for Planning.

SEPP means State Environmental Planning Policy (State Significant Precincts) 2005.

Sight Lines means the Crown Sight Lines and the Lendlease Sight Lines.

Sight Lines Proceedings means Supreme Court of New South Wales proceedings 2018/244638 and 2018/244619 and Supreme Court of New South Wales, Court of Appeal proceedings 2019/13054 and 2019/13044.

Sight Lines Provisions means the Crown Sight Lines Provisions and the Lendlease Sight Lines Provisions.

SSD means State significant development as defined in the *Environmental Planning and Assessment Act 1979 (NSW)*.

Third Party Appeal means legal proceedings which have been commenced in the Appeal Period by a person other than INSW or LLMP in relation to the granting of an Approval to the Modification Application or the Approval to the Barangaroo South Planning Applications (LLMP).

Unacceptable Conditions means any condition of an Approval or proposed Approval in respect of a Modification Application or any Barangaroo South Planning Applications (LLMP) which have the following effect:

- (a) the percentage of GFA to be provided for KWH on-site in relation to Block 4, is increased to 3% or more of the GFA approved for residential use within Barangaroo South;
- (b) the public benefit contribution (in kind) to be provided in relation to Block 4 is greater than 200 m²;
- (c) the public benefit contribution (in kind) is required to be located within the built form of all, or any, of Building R4A, Building R4B or Building R5 in any area other than the ground floor or podium level 1 of any of those buildings;
- (d) the number of residential car parking spaces (excluding key worker housing and visitor car parking spaces) approved for Building R4A, Building R4B and Building R5 is reduced by more than 20 car parking spaces; or

- (e) the requirement for delivery milestones linking completion of any stage in Barangaroo South with the occupation certificate of any building or delivery milestones for public domain within Central Barangaroo.

1.2 Interpretation

In the event of any inconsistency between this document and the PDA, the Mod 8 Deed or the CDA (respectively), the terms of this deed prevail to the extent of the inconsistency.

2. Agreed Central Envelope

2.1 INSW entitled to consider and approve

- (a) Subject to clause 2.1(d) and clause 2.1(h), LLMP, LLC, Crown and Crown Resorts acknowledge that INSW is entitled to consider and approve an application for development of Central Barangaroo so long as the development proposed for Block 5, Block 6 and Block 7 pursuant to that application is wholly within the Central Barangaroo Envelope.
- (b) Subject to clause 2.1(c), INSW agrees that in:
 - (i) submitting or agreeing to submit the Modification Application or any Central Barangaroo Planning Application; or
 - (ii) approving an application to INSW for landowner's consent or for contractual approval from the Central Developer or any other person in relation to Central Barangaroo,

INSW will ensure that the maximum building envelope for development on Block 5, Block 6 and Block 7 is wholly within the boundaries of the Central Barangaroo Envelope (unless otherwise agreed in writing between the Parties).

- (c) INSW may revise and refine the detailed design for Block 5, Block 6 and Block 7 as the design of the architectural forms develop, to the extent that those revisions and refinements do not (unless otherwise agreed in writing between the Parties) result in any building or structure on Block 5, Block 6 or Block 7 outside of, or exceeding the maximum building height for the building or structure as shown on the Central Barangaroo Envelope.

For the avoidance of doubt and subject to clause 2.1(i), the reference to buildings or structures on Block 5, Block 6 or Block 7 in this clause 2.1 includes all lift overruns, structures, services, signage, appurtenances and telecommunications towers or equipment.

- (d) INSW must not submit, approve or provide landowner's consent (or any other relevant consent, approval (including an Approval) permission, endorsement or licence) to submit or agree to submit to the Consent Authority any Central Barangaroo Planning Application that provides for development of Block 5, Block 6 and Block 7 which is not wholly within the Central Barangaroo Envelope (unless otherwise agreed in writing between the Parties).
- (e) The covenants in clause 2.1(d) and clause 2.1(h) survive expiry or termination of this deed and continue for the benefit of each party (or its successor in title) who is the long term lessee of any of Building R4A, Building R4B, Building R5 and the Integrated Hotel Resort until the earlier of the termination or the expiry of its Lease. INSW must ensure that any successor or assignee of INSW is also contractually bound (by deed) by the covenants in clause 2.1(d) and clause 2.1(h) on the same terms and for the same period as INSW is bound

under this clause 2 and that any such successor or assignee is bound by an obligation to ensure that any of its subsequent successors and assignees are also bound by those covenants on the same terms and for the same period as INSW is bound under this clause 2.

- (f) INSW will provide to Crown and LLMP (within 20 Business Days from the date of this deed) a letter from the State of NSW undertaking to procure that INSW's successor or assign will be contractually bound by the covenants in clause 2.1(d) and clause 2.1(h) and that its successor or assign will similarly bind its successor or assign.
- (g) The Parties agree that the Sight Lines Provisions are of no ongoing effect in relation to circumstances arising either before or after the date of this deed and the Sight Lines Provisions are replaced in their entirety by the provisions of this clause 2.
- (h) The Parties agree that INSW may develop the areas of Central Barangaroo outside of Block 5, Block 6 and Block 7 provided that the area shown hatched on Schedule 7 may not be developed to a height in excess of that identified on the plan in Schedule 7 in respect of the relevant area.
- (i) The Parties agree that INSW will not be in breach of this deed due to the installation or erection of any telecommunication towers or equipment or other installations outside of the Central Barangaroo Envelope by a telecommunications carrier or statutory authority pursuant to its statutory rights at Law only where:
 - (i) INSW has not consented to the relevant installation or erection of the telecommunications tower or equipment; and
 - (ii) INSW has not consented to the Central Developer or any other person pursuing the relevant installation or erection of the telecommunications towers or equipment for the benefit of the Central Developer or any other person (financial or otherwise),

noting that INSW's acquiescence to that installation or erection on the basis that it is being carried out by the carrier or statutory authority pursuant to the exercise of rights at Law does not constitute consent.

- (j) If:
 - (i) a telecommunications carrier or a statutory authority exercises its statutory power to erect telecommunication towers or equipment or other installations outside of the Central Barangaroo Envelope; and
 - (ii) that telecommunications carrier or statutory authority has notified INSW that it proposes to erect telecommunication towers or equipment or other installations on Block 5, Block 6 or Block 7 outside of the Central Barangaroo Envelope and has notified INSW of the location of those installations or equipment,

INSW will propose to that telecommunications carrier or statutory authority that it places those installations or equipment in an alternative position within the Central Barangaroo Envelope or otherwise consistent with clause 2.1(h). INSW is not liable to the Parties if the telecommunications carrier or statutory authority does not adopt the alternative position proposed by INSW.

3. Modification application

3.1 Applicant for Modification Application and preparation of the Modification Application

INSW agrees to:

- (a) prepare or procure the preparation of the Modification Application; and
- (b) be the applicant for the Modification Application.

3.2 Content of Modification Application

The Modification Application must seek amendments to the Concept Plan to:

- (a) allow the Potential Additional GFA (Block 4) to be applied to Building R4A, Building R4B and/or Building R5 and so as to be wholly within the Block 4 Envelope;
- (b) provide for KWH on terms set out in clause 8(a);
- (c) (at LLMP's election) modify all relevant conditions and statement of commitments of Mod 8 to extend the time for delivery of KWH in Building R5 to reflect that it will be completed at the same time as Practical Completion of Building R5 occurs (and the Parties agree that this modification to extend the delivery time will, if it is Approved pursuant to the Concept Plan Modification, prevail to the extent of any inconsistency with the Mod 8 Deed); and
- (d) enable or facilitate the development of Central Barangaroo (including increasing the GFA available for development on Block 5, Block 6 and Block 7), subject to the development proposed for Block 5, Block 6 and Block 7 being wholly within the Central Barangaroo Envelope and otherwise complying with clause 2.1(h).

3.3 Co-operation, consultation and approval - Modification Application

- (a) LLMP, Crown and INSW must co-operate in good faith and each at its own cost to assist in the preparation of the Modification Application so that it can be lodged by 1 March 2020.
- (b) Without limiting the generality of clause 3.3(a), LLMP must provide to INSW by 1 October 2019 all such information in respect of the matters referred to in clauses 3.2(a), 3.2(b) and 3.2(c) as is reasonably necessary (having regard to the fact that the Modification Application is being prepared by multiple parties and is not limited to the matters listed in those clauses) to ensure that the Modification Application complies with all Laws and with the Consent Authority's requirements for applications to modify concept plans.
- (c) INSW must notify LLMP as soon as reasonably practicable but within 20 Business Days of LLMP providing the information referred to in clause 3.3(b) if it requires additional information (acting reasonably) in respect of the matters referred to in clauses 3.2(a), 3.2(b) and 3.2(c) to prepare the Modification Application and LLMP must provide that information as soon as reasonably practicable but within 20 Business Days of that notice. INSW must provide a copy of the draft Modification Application to LLMP and Crown for comment.
- (d) LLMP and Crown must provide comments to INSW (and to each other) in respect of any draft Modification Application provided under clause 3.3(c) within 10 Business Days of receiving the draft.

- (e) INSW must consider and take into account any comments provided in accordance with clause 3.3(d), but is only obliged to amend the draft Modification Application so as to ensure its compliance with the Central Barangaroo Envelope and the terms of this deed.
- (f) (i) If a Party disputes whether the Modification Application provides for the development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope or does not comply with clause 2.1(h), the disputing Party may notify the other Parties of that fact but it may only do so within 10 Business Days of receiving the draft.
- (ii) Within 10 Business Days of that notification of dispute, the Parties must procure, at the disputing Party's cost, that the Independent Planning Expert is appointed by them jointly to determine whether the Modification Application does or does not provide for the development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope or does not comply with clause 2.1(h).
- (iii) If the Parties cannot agree on the identity of the Independent Planning Expert within 5 Business Days of the notification by the disputing Party, the disputing Party must request the President of the Law Society of NSW to nominate an Independent Planning Expert and the Parties will appoint that expert.
- (iv) The Independent Planning Expert must be engaged on the basis that he or she must make his or her determination:
- A. within 10 Business Days after being appointed;
 - B. in writing;
 - C. giving reasons;
 - D. after having had regard to written submissions from all Parties made within 5 Business Days after the Independent Planning Expert is appointed; and
 - E. copied to the other Parties.
- (v) The determination of the Independent Planning Expert will be final and binding on the Parties (other than in the event of manifest error).
- (g) INSW must provide to Crown and LLMP a copy of the Modification Application in the form proposed to be lodged with the Consent Authority at least 10 Business Days prior to the date when it is proposed to be lodged with the Consent Authority.
- (h) INSW must provide to Crown and LLMP a copy of the Modification Application in the form lodged with the Consent Authority within 2 Business Days after it is lodged. INSW must pay the lodgement fee payable to the Consent Authority in relation to the Modification Application.
- (i) INSW must keep LLMP and Crown informed as to the progress of the Modification Application. LLMP must be invited to all meetings with the Consent Authority and the assessing Authority in respect of the Potential Additional GFA (Block 4). INSW must be invited to any meetings with the Consent Authority and the assessing Authority organised by LLMP.

- (j) INSW agrees to do everything reasonably necessary to be done by it to procure that the Approval of the Modification Application is obtained as soon as practicable and by no later than 30 April 2021.
- (k) INSW must provide to Crown and LLMP a copy of:
 - (i) any correspondence with or from the Consent Authority regarding the Modification Application;
 - (ii) any draft conditions received from the Consent Authority in respect of the approval of the Modification Application; and
 - (iii) the Approval to the Modification Application,
 within 2 Business Days after provision to or receipt of it from the Consent Authority.
- (l) LLMP and Crown must provide a response to INSW (and to each other) in respect of any draft conditions referred to in clause 3.3(k)(ii) within 5 Business Days of receipt of the draft conditions.
- (m) INSW must not submit a response to the Consent Authority in relation to any draft conditions referred to in clause 3.3(k)(ii) where the draft conditions relate to the matters referred to in clause 3.2(a), clause 3.2(b), clause 3.2(c) or which Crown is obliged to comply with as contemplated by clause 15, without first consulting with LLMP and Crown in respect of those responses.
- (n) If the Modification Application is not approved for any reason and INSW wishes to lodge another modification application in respect of the Concept Plan, the previous provisions of clause 3.3 apply to any Application in lieu of the Modification Application except that the dates referred to in clauses 3.3(a), 3.3(b) and 3.3(j) are deemed to be deleted.

4. Central Barangaroo planning applications

4.1 Review by Crown and LLMP

- (a) Prior to approving any Central Barangaroo Planning Application, INSW must:
 - (i) consult with Crown and LLMP on the design requirement for Central Barangaroo;
 - (ii) within 5 Business Days after receipt from the Central Developer or any other person of a Central Barangaroo Planning Application in a form acceptable to INSW, provide a copy of that Central Barangaroo Planning Application to LLMP and Crown;
 - (iii) allow LLMP and Crown 10 Business Days to provide comments to INSW as to whether the Central Barangaroo Planning Application is wholly within the Central Barangaroo Envelope and complies with clause 2.1(h); and
 - (iv) address any comments from LLMP and Crown received within that period of 10 Business Days which relate to the compliance of the Central Barangaroo Planning Application with the Central Barangaroo Envelope and clause 2.1(h).

- (b)
 - (i) If a Party disputes whether the Central Barangaroo Planning Application provides for the development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and complies with clause 2.1(h), the disputing Party may notify the other Parties of that fact.
 - (ii) Within 10 Business Days of that notification, the Parties must procure, at the disputing Party's cost, that the Independent Planning Expert is appointed by them jointly to determine whether the Central Barangaroo Planning Application does or does not provide for the development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and complies with clause 2.1(h).
 - (iii) If the Parties cannot agree on the identity of the Independent Planning Expert within 5 Business Days of the notification by the disputing Party, the disputing Party must request the President of the Law Society of NSW to nominate an Independent Planning Expert and the Parties will appoint that expert.
 - (iv) The Independent Planning Expert must be engaged on the basis that he or she must make his or her determination within 10 Business Days after being appointed, in writing and giving reasons (and after having had regard to written submissions from all Parties made within 5 Business Days after the Independent Planning Expert is appointed and copied to the other Parties).
 - (v) The determination of the Independent Planning Expert will be final and binding on the Parties (in the absence of manifest error).
- (c) INSW may amend the Central Barangaroo Planning Application to reflect the comments of Crown and LLMP but is only obliged to amend the Central Barangaroo Planning Application in accordance with the comments from LLMP and Crown received in accordance with clause 4.1(a)(iii), to the extent required to make the Central Barangaroo Planning Application wholly within the Central Barangaroo Envelope and complies with clause 2.1(h).
- (d) If INSW amends the Central Barangaroo Planning Application then:
 - (i) INSW must provide a copy of the amended Central Barangaroo Planning Application to Crown and LLMP;
 - (ii) Crown and LLMP must notify INSW within 2 Business Days of receipt of the amended Central Barangaroo Planning Application whether or not it agrees that the amended Central Barangaroo Planning Application provides for development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and complies with clause 2.1(h);
 - (iii) If within the period of 2 Business Days referred to in clause 4.1(d)(ii) Crown or LLMP notifies INSW that the amended Central Barangaroo Planning Application does not provide for development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and complies with clause 2.1(h) then:
 - A. if the Parties have previously appointed the Independent Planning Expert, INSW will procure the Independent Planning Expert to confirm that the updated Central Barangaroo Planning Application provides for the development of Block 5, Block 6 and Block 7 wholly within

the Central Barangaroo Envelope and complies with clause 2.1(h) within 5 Business Days; and

- B. if the Parties have not previously appointed the Independent Planning Expert but LLMP or Crown have provided comments as to whether the updated Central Barangaroo Planning Application provides for the development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and complies with clause 2.1(h), then INSW will give a copy of the amended Central Barangaroo Planning Application to LLMP and Crown and clause 4.1(b) will apply but the time period for the determination by the Independent Planning Expert in clause 4.1(b)(iv) is deemed to be 5 Business Days.

4.2 Objections to Central Barangaroo planning applications

- (a) Each of LLMP, LLC, Crown and Crown Resorts agrees that it will not:
- (i) object (or seek to enforce any rights it may have under condition C1 of Mod 8 or which it may have had under clause 5.5 of the CDA or clause 2.5 of the PDA but for this deed) in relation to the Modification Application or any Central Barangaroo Planning Application on the grounds that it impacts the Lendlease Sight Lines or the Crown Sight Lines, so long as the Modification Application or any Central Barangaroo Planning Application or both (as the case requires) provides for the development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and otherwise complies with this deed; and
 - (ii) otherwise take any action (including to commence any legal proceedings) or procure others to take any action (including to commence any legal proceedings) to prevent, hinder or otherwise delay any Modification Application or Central Barangaroo Planning Application or both (as the case requires) or make submissions to the Consent Authority, the Planning Assessment Commission or the NSW Department of Planning, Industry and Environment or any other Minister, department of the NSW Government or statutory body (or the staff of any of them) or seek to enforce any rights it may have under condition C1 of Mod 8 or which it may have had under clause 5.5 of the CDA or clause 2.5 of the PDA but for this deed on grounds that the development of Central Barangaroo impacts the Lendlease Sight Lines or the Crown Sight Lines, so long as that Modification Application or Central Barangaroo Planning Application or both (as the case requires) and that development provides for development of Block 5, Block 6 and Block 7 wholly within the Central Barangaroo Envelope and otherwise complies with this deed.
- (b) Subject to clause 4.2(a), each of LLMP, LLC, Crown and Crown Resorts retains all such other rights as it may have at Law to object to any Modification Application or Central Barangaroo Planning Application or both (as the case requires) or to development on Central Barangaroo on any basis other than that referred to in clause 4.2(a).

5. Barangaroo South Planning Applications (LLMP)

5.1 Review by Crown

- (a) Prior to lodging a Barangaroo South Planning Application (LLMP), LLMP must:
 - (i) provide a copy of that draft Barangaroo South Planning Application (LLMP) to Crown;
 - (ii) allow Crown 10 Business Days to provide comments to LLMP as to whether the Barangaroo South Planning Application (LLMP) is wholly within the Block 4 Envelope and otherwise complies with the terms of this deed; and
 - (iii) address any comments from Crown received within that period of 10 Business Days which relate to the compliance of the Barangaroo South Planning Application (LLMP) with the Block 4 Envelope.
- (b) If Crown or LLMP disputes whether the Barangaroo South Planning Application (LLMP) provides for the development of Barangaroo South wholly within the Block 4 Envelope, the disputing Party may notify the other party of that fact. Within 10 Business Days of that notification, LLMP and Crown must procure, at the disputing Party's cost, that the Independent Planning Expert determines whether it does so or not, giving reasons (and after receiving submissions from both LLMP and Crown). The determination of the Independent Planning Expert will be final and binding on LLMP and Crown (in the absence of manifest error).
- (c) LLMP may amend the Barangaroo South Planning Application (LLMP) to reflect the comments of Crown but is only obliged to amend the Barangaroo South Planning Application (LLMP) in accordance with the comments from Crown received in accordance with clause 5.1(a)(ii), to the extent required to make the Barangaroo South Planning Application (LLMP) wholly within the Block 4 Envelope. LLMP must comply with clause 5.1(a) in respect of the amended Barangaroo South Planning Application (LLMP).
- (d) Crown agrees that LLMP will not be in breach of this deed due to the installation or erection of any telecommunication towers or equipment or other installations outside of the Block 4 Envelope by a telecommunications carrier or statutory authority pursuant to its statutory rights at Law only where LLMP has not consented to the relevant installation or erection of the telecommunications tower or equipment.

5.2 No objection to Barangaroo South Planning Applications (LLMP)

In consideration of the agreements contained in this deed:

- (a) INSW agrees that it will not object to a Barangaroo South Planning Application (LLMP) on the basis that it provides for either:
 - (i) the Potential Additional GFA (Block 4) where the Approval to the Modification Application has not issued at the time that a Barangaroo South Planning Application (LLMP) is submitted to INSW; or
 - (ii) the Approved Additional GFA (Block 4) where the Approval to the Modification Application has issued at the time that the Barangaroo South Planning Application (LLMP) is submitted to INSW.

- (b) Subject to clause 5.2(a), INSW retains all such other rights as it may have under the PDA or at Law to object or refuse consent under the PDA or at Law to any Barangaroo South Planning Application (LLMP) on any basis other than that referred to in clause 5.2(a).
- (c) Crown and Crown Resorts agrees that they will not object to a Barangaroo South Planning Application (LLMP) on the grounds that it provides for the Potential Additional GFA (Block 4) within the Block 4 Envelope so long as the Barangaroo South Planning Application (LLMP) provides for the development of Barangaroo South wholly within the Block 4 Envelope.
- (d) Subject to clause 5.2(c), each of Crown and Crown Resorts retains all such other rights as it may have at Law to object to any Barangaroo South Planning Application (LLMP) on any basis other than that referred to in clause 5.2(b).
- (e) INSW agrees that it will not otherwise take any action (including to commence any legal proceedings) or procure others to take any action (including to commence any legal proceedings) to prevent, hinder or otherwise delay any Barangaroo South Planning Application (LLMP) or make submissions to the Consent Authority, the Responsible Minister, the Independent Planning Commission or the NSW Department of Planning, Industry and Environment or any other Minister, department of the NSW Government or statutory body or the staff of any of them in relation to development that LLMP undertakes or proposes to undertake to the extent it relates to the Potential Additional GFA (Block 4) (where the Approval to the Modification Application has not issued at the relevant time) or the Approved Additional GFA (Block 4) (where the Approval to the Modification Application has issued at the relevant time) and the changes to KWH referred to in this deed being applied for or approved by the Consent Authority.
- (f) Crown and Crown Resorts agree that they will not otherwise take any action (including to commence any legal proceedings) or procure others to take any action (including to commence any legal proceedings) to prevent, hinder or otherwise delay any Barangaroo South Planning Application (LLMP) or make submissions to the Consent Authority, the Responsible Minister, the Independent Planning Commission or the NSW Department of Planning, Industry and Environment or any other Minister, department of the NSW Government or statutory body or the staff of any of them on the grounds that it provides for the Potential Additional GFA (Block 4) within the Block 4 Envelope so long as that Barangaroo South Planning Application (LLMP) provides for the development of Barangaroo South wholly within the Block 4 Envelope.
- (g) Subject to clause 5.2(f), each of Crown and Crown Resorts retains all such other rights as it may have at Law to take any action or procure others to take any action to any Barangaroo South Planning Application (LLMP) on any basis other than that referred to in clause 5.2(f).
- (h) INSW agrees that it will procure the Central Developer to not take any action (including to commence any legal proceedings) to object to, prevent, hinder or otherwise delay the Approval of the Modification Application or development of Barangaroo South in accordance with that Approval or make submissions to the Consent Authority, the Responsible Minister, the Independent Planning Commission or the NSW Department of Planning, Industry and Environment or any other Minister, department of the NSW Government or statutory body or the staff of any of them or objecting to the development that LLMP undertakes or proposes to undertake on the basis of the Potential Additional GFA (Block 4) (where the Approval to the Modification Application has not issued at the relevant time) or the Approved Additional GFA (Block 4) (where the Approval to the Modification Application has issued at the relevant time) and the changes to

the KWH referred to in this deed, including any objection to the Modification Application to the extent it relates to the provision of the Potential Additional GFA (Block 4) and changes to the KWH referred to in this deed.

5.3 Central Barangaroo Developer

- (a) INSW accepts all risks of obtaining the consent of the Central Developer to all matters relating to Central Barangaroo and the obtaining of the Approved Additional GFA (Block 4) and changes to KWH referred to in this deed.
- (b) If INSW is able to obtain a written release from the Central Developer in relation to the matters referred to in clause 5.3(a) or in respect of acts or omissions of the Parties prior to the date of this deed (noting that the Central Developer has no obligation to provide a written release), INSW will endeavour to obtain a release on the same terms for the benefit of Crown and LLMP.
- (c) If:
- (i) the Central Developer (**Claimant**) brings an action against Crown, Crown Resorts, LLMP or LLC (each being referred to as a **Defendant**, as relevant) seeking to recover damages for tortious interference due to the participation of the Defendant in the negotiations between the Defendant and the Barangaroo Delivery Authority, referred to by the project name of Grand Bargain or which took place during the period from 14 July 2018 to 14 August 2018; and either:
 - A. the Claimant is successful in any proceedings and is entitled to recover any such damages as referred to in paragraph (i) of this clause; or
 - B. the Claimant is not successful in any such proceedings and is not awarded damages but the Defendant has been unable to recover their legal costs from the Claimant within 6 months from the date judgment was made, having used all reasonable endeavours to recover those costs; and
 - (ii) the Defendant did not join, or attempts to join, INSW as a party to the proceedings,
- then if the Defendant provides evidence in writing confirming that the circumstances referred to in paragraphs (i), (ii) and (iii) have occurred, to the satisfaction of INSW, acting reasonably, and provides to INSW a copy of a tax invoice for its legal costs, INSW will pay the legal costs of Crown and Crown Resorts jointly up to the total amount of \$3,000,000, and the legal costs of LLMP and LLC jointly up to the total amount of \$3,000,000, such payment in full satisfaction of any liability INSW may have in relation to the circumstances referred to in this clause.
- (d) As far as INSW is aware, as at the date of this deed, the Claimant has not made, and does not have any intention to make, any claim or take any other action of the type referred to in clause 5.3(c)(i).

5.4 Exception to confidentiality

Despite the provisions of clause 57.14 of the CDA and clause 58.16 the PDA INSW acknowledges and agrees that LLMP and Crown are entitled to disclose to purchasers,

potential purchasers and their associated agents and advisors of residential apartments to be erected on Block 4 or the Crown Site that the development on:

- (a) Block 5 will not exceed RL 44.50;
- (b) Block 6 will not exceed RL 38.70; and
- (c) Block 7 will not exceed RL 73.7.

6. Planning - general

6.1 Amendment of legislation

if:

- (a) the EP&A Act or any delegated legislation or instruments made pursuant to it, are amended or proposed to be amended;
- (b) the current statutory regime under the EP&A Act is found to preclude the prosecution of the Applications referred to in this deed; or
- (c) new Laws are promulgated which affect the Applications referred to in this deed,

so that any request for a modification to an approval contemplated by this deed:

- (d) can no longer be made; or
- (e) must be made within any prescribed period specified,

the Parties must work collaboratively and must consult regularly to give effect to the intentions of this deed, including the introduction of appropriate legislative, regulatory or administrative reforms to give effect to the intentions of this deed. The Parties must also work collaboratively and must consult regularly to give effect to any new legislative framework.

6.2 Surrender of Concept Plan

- (a) INSW must not take any step towards surrendering the Concept Plan without the prior written consent of LLMP, LLC, Crown and Crown Resorts which will not be unreasonably withheld or delayed.
- (b) INSW agrees that it will be reasonable for LLMP, LLC, Crown or Crown Resorts to withhold its consent to the surrender of the Concept Plan unless an Independent Counsel confirms in writing in favour of all Parties that there will not be any material adverse impact on the Existing Approvals (including the ability of those parties to carry out development without incurring delay) pursuant to those Existing Approvals.
- (c) LLMP agrees to procure the advice from the Independent Counsel referred to in clause 6.2(b) at its cost and all Parties will act reasonably to agree the brief to the Independent Counsel in a timely manner.

7. LLMP financial adjustments

7.1 Acknowledgement

INSW and LLMP acknowledge and agree that:

- (a) the amount of Development Rights Fee payable by LLMP to INSW under the PDA immediately prior to the entry into this deed is \$893,415,467.10 of which \$318,415,467.10 has already been paid prior to the date of this deed; and
- (b) subject to clause 7.3, the balance of \$575,000,000 is payable by LLMP to INSW on 1 July 2021.

7.2 Conditional Development fee

- (a) In consideration of the releases given by LLMP in clause 17, INSW agrees that if LLMP has not procured Legally Binding Sales in respect of more than 90% of the total number of residential apartments in Building R4A by 1 March 2021, then INSW must pay LLMP a development fee of \$40,000,000 on 1 July 2021.
- (b) INSW may by notice in writing require that LLMP sets off the development fee referred to in clause 7.2(a) against the instalment of Development Rights Fee which is payable by LLMP to INSW on 1 July 2021.

7.3 Conditional Adjustment to timing of DRF payment

In consideration of the releases given by LLMP in clause 17, INSW agrees that if LLMP has not procured Legally Binding Sales in respect of more than 90% of the total number of residential apartments in Building R4A by 1 March 2021, then:

- (a) an amount of \$340,000,000 of the Development Rights Fee will not be due and payable by LLMP on 1 July 2021, but will instead be due and payable by LLMP on 1 December 2025; and
- (b) the amount of \$235,000,000 of the Development Rights Fee remains due and payable by LLMP to INSW on 1 July 2021 (subject to any set off of the development fee of \$40,000,000 which may be payable under clause 7.2(a) made in accordance with clause 7.2(b)).

7.4 No DRF payment for Approved Additional GFA (Block 4)

- (a) LLMP is not obliged to pay INSW any amount in respect of additional Development Rights Fee under clause 4 of the PDA for any Approved Additional GFA (Block 4).
- (b) For the avoidance of doubt and having regard to clause 7.4(a), the Approved Additional GFA (Block 4) is to be disregarded for the purposes of clause 4 of the PDA.

7.5 Planning fee payable where Modification Application is late

- (a) If:
 - (i) LLMP has provided all necessary information in accordance with clause 3.3(b) by 1 October 2019 and, where applicable, LLMP has provided additional information in accordance with clause 3.3(c); but

- (ii) INSW fails to lodge the Modification Application with the Consent Authority by 1 July 2020,

INSW must pay LLMP a planning fee of \$80,000,000 on or before 15 July 2020 and the Application for the Potential Additional GFA (Block 4) will not proceed.

- (a) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 7.5(a) is the right to receive the payment of \$80,000,000 referred to in that clause.

7.6 Delay in obtaining Approval of the Modification Application

- (a) If:
 - (i) the sum of \$80,000,000 is not payable under clause 7.5; and
 - (ii) the Approval of the Modification Application has not been obtained by 30 April 2021,

INSW must pay LLMP \$10,000,000 per month, payable in advance on the first day of each month and commencing on 1 May 2021, for a total period of 3 months (being \$30,000,000 in total).

- (b) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 7.6(a) is the right to receive the payment referred to in that clause.

7.7 Refund

If Approval of the Modification Application is received:

- (a) after 30 April 2021; but
- (b) before 2 July 2021,

LLMP must by 15 July 2021 refund to INSW all amounts received from INSW under clause 7.6.

7.8 No Approval – Modification Application

If:

- (a) the amount of \$80,000,000 is not payable under clause 7.5; and
- (b) the Approval of the Modification Application has not been obtained by 2 July 2021:

LLMP must notify INSW in writing on or before 15 July 2021, that it either:

- (c) elects not to proceed to pursue the Potential Additional GFA (Block 4) in which event:
 - (i) INSW must pay LLMP the sum of \$50,000,000 within 20 Business Days after receipt by INSW of that notification (in addition to any amounts already paid under clause 7.6, so as to comprise a total payment of \$80,000,000); and

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- (ii) INSW may elect to amend the Modification Application to delete all references to the Potential Additional GFA (Block 4) or the Approved Additional GFA (Block 4) (as applicable) and the changes to the KWH arrangements referred to in this deed; or
- (d) elects to continue to pursue the Potential Additional GFA (Block 4) in which event LLMP may retain 100% of the amount referred to in clause 7.6, where applicable.

7.9 Unresolved Third Party Appeals to Modification Application

- (a) If:
 - (i) the amount of \$80,000,000 is not payable under clause 7.5 or clause 7.8; and
 - (ii) by 31 January 2022, a Third Party Appeal has been commenced in respect of the Modification Application but either:
 - A. has not been judicially determined; or
 - B. has been judicially determined but is still subject to a right of appeal by any party,

LLMP must notify INSW in writing on or before 15 February 2022, that it either:

- (iii) elects not to proceed to pursue the Potential Additional GFA (Block 4) in which event:
 - A. INSW must pay LLMP the sum of:
 - 1) \$80,000,000 (where clause 7.6 does not apply); and
 - 2) \$50,000,000 000 (where clause 7.6 does apply) and INSW has paid the fee of \$30,000,000 to LLMP and that fee of \$30,000,000 has not been refunded by LLMP to INSW under clause 7.7,

within 20 Business Days of the date of LLMP's notification of its election; and
 - B. INSW may elect to amend the Modification Application to delete all references to the Potential Additional GFA (Block 4) or the Approved Additional GFA (Block 4) (as applicable) and the changes to the KWH arrangements referred to in this deed; or
 - (iv) elects to continue to pursue the Potential Additional GFA (Block 4) in which event LLMP is not entitled to a payment under this clause 7.9.
- (b) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 7.9(a) is the right to receive a total amount of \$80,000,000 in accordance with this clause 7.

7.10 Unacceptable Conditions

- (a) Subject to clause 7.14, if:
- (i) by 2 July 2021, the Approval of the Modification Application; or
 - (ii) the Approval of the Barangaroo South Planning Applications (LLMP), contains an Unacceptable Condition, INSW must pay:
 - (iii) \$80,000,000 to LLMP (where clause 7.6 does not apply); and
 - (iv) \$50,000,000 to LLMP (where clause 7.6 does apply and INSW has paid the fee of \$30,000,000 to LLMP and that fee of \$30,000,000 has not been refunded by LLMP to INSW under clause 7.7),

on or before 15 July 2021 (in respect of clause 7.10(a)(i)) or within 20 Business Days of the Approval being received with an Unacceptable Condition (in respect of clause 7.10(a)(ii)) and LLMP will not proceed to utilise any Approved Additional GFA (Block 4).
- (b) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 7.10(a) is the right to receive a total amount of \$80,000,000 in accordance with this clause 7.
- (c) It is acknowledged and agreed that the terms of Mod 8, the current Approvals and the Mod 8 Deed that are unchanged by this deed are not Unacceptable Conditions for the purposes of this deed.

7.11 Fee if Potential Additional GFA (Block 4) sought is not approved

If, as at the date of the relevant Approval, the Approved Additional GFA (Block 4) is less than the amount of the Potential Additional GFA (Block 4) applied for under the Modification Application and the Barangaroo South Planning Applications (LLMP), INSW must pay LLMP a fee equal to \$10,000 per square metre for every square metre of GFA by which the Approved Additional GFA (Block 4) is below the amount of Potential Additional GFA (Block 4) sought pursuant to the Modification Application and the Barangaroo South Planning Applications (LLMP).

7.12 Use of Approved Additional GFA (Block 4)

Subject to clause 7 and compliance by LLMP with all relevant Approvals, LLMP may:

- (a) determine the location, mix, yield, footprint, building massing, envelope and/or allocation of the Approved Additional GFA (Block 4) in Building R4A, Building R4B and Building R5; and
- (b) elect not to seek or utilise all or any of the Approved Additional GFA (Block 4).

7.13 Consequences of Third Party Appeal

- (a) If:
 - (i) the amount of \$80,000,000 is not payable under clause 7.5, clause 7.8 or clause 7.9 (including in the case of clause 7.9, in combination with clause 7.6); and

- (ii) either the Approval of the Modification Application or the Approval of the Barangaroo South Planning Applications (LLMP) is amended as the result of the determination of a Third Party Appeal so that:
- A. it contains an Unacceptable Condition and LLMP notifies INSW to that effect within 10 Business Days after receipt of the relevant Approval; or
 - B. the amount of the Approved Additional GFA (Block 4) is less than the amount of the Potential Additional GFA (Block 4) applied for under the Modification Application,
- INSW must pay to LLMP the amount of:
- C. \$80,000,000 (in the event of an Unacceptable Condition) where clause 7.6 does not apply;
 - D. \$50,000,000 (in the event of an Unacceptable Condition) where clause 7.6 does apply and INSW has paid the fee of \$30,000,000 to LLMP and that fee of \$30,000,000 has not been refunded by LLMP to INSW under clause 7.7; or
 - E. a fee equal to \$10,000 per square metre for every square metre of GFA by which the Approved Additional GFA (Block 4) is below the amount of Potential Additional GFA (Block 4) sought pursuant to the Modification Application and the Barangaroo South Planning Applications (LLMP), provided LLMP has not previously received payment under clause 7.11 in relation to the same amount of reduction in GFA,
- within 20 Business Days after the determination of that Third Party Appeal.

- (b) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 7.13(a) is the right to receive the payment referred to in this clause 7.

7.14 Limited application to Barangaroo South Planning Applications (LLMP)

Despite any other provision of this deed, INSW is not liable to pay any moneys, incur any costs or other liability, make any reductions to any existing payments, or other, obligations of LLMP or carry out any works pursuant to any of clauses 7, 8, 9 or 10 in relation to any one or more Barangaroo South Planning Applications (LLMP) if that application or applications is lodged for approval with the Consent Authority after 1 September 2021.

7.15 Compliance with the Approval to Modification Application

LLMP must procure that the amount of Potential Additional GFA (Block 4) to be sought in any Barangaroo South Planning Application (LLMP) does not exceed the Approved Additional GFA (Block 4) pursuant to the Approval to the Modification Application.

7.16 True up of Approved Additional GFA (Block 4)

If:

- (a) INSW pays LLMP moneys payable under either or both clause 7.11 or clause 7.13; and
- (b) due to a subsequent Approval or the determination of any judicial review of an Approval or a Third Party Appeal, the Potential Additional GFA (Block 4) is increased or decreased from what it was when the payment under clause 7.11 or clause 7.13 was made,

the provisions of clause 7.11 or 7.13 or both will re-apply to the amount of the Approved Additional GFA (Block 4) last approved and LLMP must refund the amount of any overpayment or INSW must pay LLMP the amount of any underpayment (as the case may be).

7.17 Consequential amendments to Bank Guarantees under PDA

Despite the provisions of the clause 39.2 of the PDA, LLMP must:

- (a) within 20 Business Days of the date of this deed, provide or replace the Bank Guarantee referred to in clause 39.2(a) of the PDA with a Bank Guarantee having an expiry date of not earlier than 1 June 2026; and
- (b) provide all further Bank Guarantees which are to be provided under clause 39.2(b) with Bank Guarantees having an expiry date not earlier than 1 June 2026.

8. Key worker housing

- (a) INSW agrees to provide its consent, as landowner and for the purposes of the PDA and the CDA, to a request by LLMP to seek approval to amend the Existing Approvals on the following basis:
 - (i) KWH of 2.3% of any Potential Additional GFA (Block 4) is to be provided onsite on Barangaroo South within Block 4 at a location determined by LLMP; and
 - (ii) KWH in the amount of 0.7% of any Potential Additional GFA (Block 4) is to be provided offsite by an appropriate delivery partner and at a location selected by LLMP,

subject to the conditions of all relevant Approvals. If at the time INSW's consent to amend the Existing Approvals is sought, the Approval to the Modification Application has been obtained, the amount of the Potential Additional GFA (Block 4) sought must be equal to the amount of the Approved Additional GFA (Block 4).

- (b) Subject to clause 7 and clause 8(d), LLMP acknowledges and agrees that if approval to amend the Approval for the Barangaroo South Planning Applications (LLMP) as contemplated in clause 8(a)(i) or clause 8(a)(ii) is not obtained on the terms sought or at all:
 - (i) INSW is not liable to LLMP in any way in relation to those amendments not being approved; and

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- (ii) no compensation or other consideration of any kind is payable by INSW to LLMP.
- (c) Subject to clause 8(d), INSW is not obliged to contribute any costs in relation to the provision of KWH.
- (d) If the Approval for the Modification Application or Barangaroo South Planning Applications (LLMP) contains a condition which increases the percentage of KWH which must be provided in relation to residential development on Barangaroo South, the following applies:
 - (i) if the percentage of KWH to be provided onsite in Barangaroo South is more than 2.3% of the Aggregate Block 4 Developable GFA and less than 2.99% of the Aggregate Block 4 Developable GFA, INSW must pay LLMP, within 20 Business Days after the relevant Approval is received, an amount equal to \$30,000 per square metre of the increase in the amount of KWH which must be provided for in Barangaroo South in excess of 2.3% of the Aggregate Block 4 Developable GFA;
 - (ii) if the percentage of KWH to be provided offsite in relation to Barangaroo South is more than 0.7% of the Aggregate Block 4 Developable GFA, INSW must pay for any offsite KWH GFA which must be provided offsite in excess of 0.7% of the Aggregate Block 4 Developable GFA; and
 - (iii) to determine the amount payable by INSW under clause 8(d)(ii), LLMP must procure 3 quotes from Community Housing Providers setting out the costs they would charge for the works and to provide the KWH required under the Approval to the Modification Application or the Barangaroo South Planning Applications (LLMP) in excess of 0.7% of the Aggregate Block 4 Developable GFA. INSW must pay the amount of the lowest of those 3 quotes within 20 Business Days after it receives either a copy of the contract with the relevant Community Housing Provider executed by all parties or it receives a copy of the receipt from the Community Housing Provider for that amount where the conditions of the relevant Approval allow LLMP to make a cash contribution and LLMP has elected to do so under clause 8(f).
- (e) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 8(d) is the right to receive the payment referred to in that clause.
- (f) Subject to LLMP complying with the terms of any Approval and giving INSW prior written notice, INSW will not object if:
 - (i) the existing on-site KWH and KWH obligation referred to in clause 8(a)(i) and clause 8(a)(ii) is satisfied by LLMP making an appropriate cash contribution to a Community Housing Provider for the delivery of the offsite KWH; and
 - (ii) onsite and offsite KWH for both existing and Approved Additional GFA (Block 4) is delivered no later than Practical Completion of the last residential building in Barangaroo Stage 1B.
- (g) If the amendments referred to in clauses 8(a)(i) and 8(a)(ii) are Approved, and to give effect to clause 8(f), the Parties will amend the Mod 8 and Hotel Resort DA Deed so that it is consistent with the terms of the Approval as amended.

- (h) Despite the previous provisions of clause 8, where there is a reduction in onsite KWH and an increase in offsite KWH and the total KWH requirement does not exceed 3% of Residential GFA, INSW will not be obligated for any payment regardless of the split between onsite and offsite requirements (as the onsite GFA reduction credits the offsite GFA requirement up to 3%).

9. Public benefit including infrastructure and community uses

- (a) In this clause 9, a reference to infrastructure is a reference to infrastructure with either no direct benefit to Building R4A, Building R4B or Building R5 or which is not required as a result solely of the increase in the GFA in relation to Block 4 approved by the Approval to the Modification Application over and above the GFA approved for Block 4 in Mod 8.
- (b) If the Approval of the Modification Application or the Barangaroo South Planning Applications (LLMP) imposes a consent condition which increases the public benefit, infrastructure or community use to be provided in relation to Barangaroo South under Mod 8, the following applies:
- (i) where that increased public benefit, infrastructure or community use is to be provided within Barangaroo South but outside of Building R4A, Building R4B or Building R5:
- A. INSW will, at its cost, procure the satisfaction of those increased requirements; and
- B. LLMP will do all things reasonably required by INSW to enable INSW to procure the satisfaction of those increased requirements; and
- (ii) any monetary public benefit contribution or additional infrastructure levy (beyond that required under Mod 8) that results as a condition of the Approval of the Modification Application or Barangaroo South Planning Applications (LLMP) will be paid for by INSW; and
- (iii) where that public benefit, infrastructure or community use is:
- A. to be provided inside of Building R4A, Building R4B or Building R5 and is located on the ground floor or podium level 1 of any of those buildings; and
- B. less than 200 m² of GFA,
- INSW must pay LLMP the sum of \$30,000 per square metre of GFA to be provided to satisfy that condition of the Approval (to the extent it is over and above the GFA required to be applied for public benefit, infrastructure or community use under Mod 8), and that amount will be payable within 20 Business Days after the relevant Approval.
- (c) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 9 is the right to receive the payment referred to in that clause.

10. Car parking

- (a) If the Approval of the Modification Application or the Approval of a Barangaroo South Planning Applications (LLMP) imposes a consent condition which reduces the total number of residential (excluding KWH and visitor car parking

spaces) car parking spaces available for Block 4 (as compared to the number of residential (excluding KWH and visitor car parking spaces) approved for Block 4 at the date of the submission of the Modification Application) the following applies:

- (i) where there is a reduction of 1 to 10 car parking spaces, INSW must pay LLMP an amount of \$550,000 per car parking space reduced;
 - (ii) where there is a reduction of 11 to 20 car parking spaces, in addition to the amount payable under clause 10(a)(i), INSW must pay LLMP \$750,000 per car parking space reduced in excess of 10 car parking spaces; and
 - (iii) where there is a reduction of more than 20 car parking spaces, such a reduction constitutes an Unacceptable Condition which is to be addressed in accordance with clause 7.10 and clause 7.13 (subject to clause 7.14).
- (b) LLMP acknowledges and agrees that its sole remedy in relation to the occurrence of the circumstances set out in clause 10(a) is the right to receive the payment referred to in that clause unless it constitutes an Unacceptable Condition and clause 7 applies.

11. Development program

The Development Program in the PDA (being Annexure F to the PDA) is amended so that the Substantial Commencement Milestones (referred to as 'Cumulative GFA Substantial Commencement Milestone' in the table below) and the Practical Completion Milestones (referred to as 'Cumulative GFA Practical Completion Milestone' in the table below) reflect the following:

Date	Cumulative GFA Substantial Commencement Milestone (Developable GFA m ²)	Cumulative GFA Practical Completion Milestone (Developable GFA m ²)
30-Jun-21	340,000	340,000
30-Jun-22	340,000	340,000
30-Jun-23	360,000	340,000
30-Jun-24	400,000	340,000
30-Jun-25	430,275	360,000
30-Jun-26	430,275	400,000
30-Jun-27	430,275	430,275

12. Lendlease retail public domain licensed areas

- (a) Subject to clause 12(b), Lendlease Retail is not required to pay any licence fees under the Public Domain Licences in relation to the Lendlease Retail Licensed Area for the term of the Public Domain Licences.
- (b) INSW is entitled to register an easement for public access and services (burdening part of the land shown as "S12" and "PA15" on the plans of the easements in Schedule 4) on the title for the land in relation to which the Public Domain Licence has been granted to Lendlease Retail in the form of the Draft

Easement for Public Access and Services (Lendlease), with any necessary changes being made.

- (c) LLMP must promptly procure that Lendlease Retail provide any consents requested by INSW to allow for the registration of the easement for public access and services which is in form required under clause 12(b).

13. Crown public domain licensed areas

- (a) The Parties agree that the CDA is amended with effect from the date of this deed to reflect the areas which were to be the subject of the Long Term Licence (being the areas shown in hatch on the plan in Schedule 5) will no longer be the subject of the Long Term Licence, but will instead be included within the areas to be leased to Crown under the Hotel Resort Lease.
- (b) INSW is entitled to register an easement for public access (burdening the land shaded blue on the plan in Schedule 5) on the title for the land in relation to which the Hotel Resort Lease is to be granted in the form of the Draft Easement for Public Access Crown.
- (c) Crown must promptly provide any consents requested by INSW to allow for the registration of the easement for public access which is in form required under clause 13(b).
- (d) For the purposes of effecting the change in subclause 13(a), the Parties agree:
- (i) that the attached plan in Schedule 5 shall supersede Sheet 2 of 10 in the plans for subdivision approved by the Authority under its letter dated 7 May 2019 to LLMP and Crown (and the words 'which exclude the area to be licensed under the Long Term Licence' in item 2 of that letter shall be treated as deleted);
 - (ii) that despite subclause 13(d)(i), Crown is deemed by the Parties to have complied with clause 20.3(b) of the CDA (by letter dated 13 May 2019 to LLMP and the Authority) and clause 20.3(d) of the CDA (by letter dated 17 May 2019 to the Authority);
 - (iii) that LLMP's obligations to subdivide under clause 20.1 of the CDA shall include the areas which were to be the subject of the Long Term Licence in accordance with the plans attached in Schedule 5;
 - (iv) to amend the CDA as follows:
 - A. replacing all references to the "Proposed Premises Plan" with a reference to the plan for subdivision approved by the BDA by its letter dated 7 May 2019 and updated by this deed to include the areas which were to be the subject of the Long Term Licence;
 - B. deleting all references to the Long Term Licence (including all references in clause 22), the Pro Forma Public Domain Licence and any land and/or area to be licensed to Crown; and
 - C. deleting clause 22.8 of the CDA ("Completion of Long Term Licence");

and to do all such things as required to reflect the matters referred to in this clause.

- (e) Each party must bear its own costs in complying with the requirements of this clause and any corresponding costs arising in connection with the changes to the CDA.

14. Pedestrian and vehicular access for Crown

- (a) The Parties acknowledge that Mod 8 includes the following conditions:

- (i) Condition B3(5)

Barton Street is approved as a temporary road only and is subject to the future environmental assessment requirements of C8. Following the completion of the development on Block Y and the construction of Barangaroo Avenue, Barton Street shall be redesigned and returned as parkland and integrated to form part of Hickson Park. Any future application in respect of Hickson Park shall ensure the design, construction and use of this area is public open space and parkland.

- (ii) Condition B12

Prior to the issue of any occupation certificate within Block 4A, 4B or Y, the foreshore promenade (to the full extent mapped in the SEPP amendment), pier, Waterman's Cove and Hickson Park (other than the temporary construction road corridor on the alignment of the former Barton Street) shall be constructed, landscaped and publicly accessible.

The timing for the replacement of Barton Street, in accordance with B3(5), is to be agreed with the Secretary.

- (iii) Condition C3C

The Proponent is to undertake further consultation with the RMS and TfNSW regarding the following: a) any proposed traffic signals at the Hickson Road/Shelley Street and Barton Street/Hickson Road intersections; b) coach setdown provisions within the Barangaroo precinct, ensuring there are no laybys on Barangaroo Avenue; c) the construction of Barton Street as a temporary access road only for the construction of Block Y and the implications for the road network in Barangaroo; and d) the conversion of Barangaroo Avenue from the Northern exit of the porte-cochere on Block Y to the North-western corner of Block 5 to a shared zone.

- (iv) Condition C8

The future design of Barangaroo Avenue shall: a) provide for a shared zone between the northern exit of the Porte Cochere on Block Y and the north-west corner of Block 5; b) minimise the road surface area to promote pedestrian access and safety; and c) shall comply with the Transport for NSW guidelines on shared zones and RMS specifications to minimise the potential for vehicular and pedestrian conflict and improve the amenity and quality of the streetscape. Any future application for the shared zone section of Barangaroo Avenue shall also be accompanied by a Road Safety

Audit. The provision of any future intersection with Hickson Road in the vicinity of the boundary between Block 4 and 5 shall be for temporary construction purposes only and is to ensure that pedestrian access between Hickson Park and the waterfront in the vicinity of Block Y is prioritised.

- (b) To endeavour to ensure a high quality outcome for the Barangaroo South precinct during the construction of Central Barangaroo, the Parties agree to work collaboratively with each other, at no cost to INSW (other than its own legal and administrative costs), in relation to the creation of a temporary road suitable for use by vehicles (including cars, buses, emergency vehicles and construction vehicles) that connects Barangaroo Avenue to Hickson Road, which may be on or around the alignment of the proposed Barton Street and wholly within Barangaroo South.
- (c) Crown and LLMP acknowledge and agree that:
 - (i) the design of the road will be finalised having regard to the interface between pedestrians and vehicles (including construction vehicles), and swept paths; and
 - (ii) this road will be in place until completion of Block Y and completion of Barangaroo Avenue (as referred to in Mod 8) (or equivalent connection from Block 5 to Block Y as contemplated in Mod 8) and at that time this road is intended to be reinstated as part of Hickson Park.
- (d) The Parties will collaborate to allow:
 - (v) LLMP to upgrade and embellish the construction hoardings on Block 4 surrounding Hickson Park and the eastern side of Barangaroo Avenue in a manner that is consistent with the current construction hoardings at Waterman's Cove in place at the date of this deed (and at no cost to INSW);
 - (vi) Crown to upgrade and embellish the construction hoardings located on the northern boundary of the Crown Site in a manner that is consistent with the current construction hoardings in place at the date of this deed at Waterman's Cove (and at no cost to INSW);
 - (vii) LLMP to deliver trees on Barangaroo Avenue in accordance with Public Domain Development Consent SSD 7944 to be of a consistent size, regardless of any construction staging; and
 - (viii) LLMP or Crown to lodge any required Applications in respect of this clause 14.
- (e) Despite the provisions of the PDA, the CDA and the Staging Licences, INSW will allow LLMP to have continued occupation of Foreshore Block 5 and Foreshore Block 6 on the same terms as the existing Staging Licence until 30 October 2022. This will provide LLMP with contiguous access for Foreshore Blocks 5 and 6 until 30 October 2022. INSW will collaborate, at no cost to it, with LLMP and Crown and liaise with the Central Developer to endeavour to obtain access to Foreshore Block 5 after that date.
- (f) LLMP agrees to release access of the western wedge of Foreshore Block 5 to INSW by 31 May 2021 as shown in Schedule 9.

15. No changes to delivery of Crown Sydney

- (a) Nothing in this deed changes or otherwise amends LLMP's obligations pursuant to the CDA or the Hotel Project Agreement to deliver all of the LLMP Milestones in accordance with the terms of the CDA and Hotel Project Agreement (including in particular the dates for delivery of each LLMP Milestone).
- (b) If as a result of the proposed development of Central Barangaroo as contemplated by the Modification Application, the Consent Authority imposes a new or varied condition in the Approval to the Modification Application (different from what was required under Mod 8) to be complied with by Crown and which:
- (i) is associated with the completion or opening of the development by Crown pursuant to the CDA; and
 - (ii) as a result of:
 - A. that new or varied condition Crown incurs additional cost or expense to comply with that condition; or
 - B. having to comply with that condition Crown is delayed in the completion or opening of the Integrated Hotel Resort,

(Central Approval Adverse Condition) INSW will pay Crown all reasonable costs, expenses, loss, Liability, or damage suffered by either or both of Crown and Crown Resorts as a result of that Central Approval Adverse Condition.

16. Water treatment plant

INSW, LLMP and Crown acknowledge and agree that, on the same date as this deed, they entered into a deed whereby INSW agreed to pay Crown \$3,933,184 towards its costs incurred in relation to a water treatment plant built by Crown for the remediation required to facilitate the Crown Works on the Stage 1C Site.

17. Release, notice of discontinuance

- (a) Subject to clause 17(c), the Parties agree that upon execution of this deed:
- (i) the Parties will release and forever discharge each other in relation to any liability, costs (including any existing unsatisfied costs orders) or claims arising out of, relating to or in any way connected with or incidental to:
 - A. the Sight Lines Proceedings;
 - B. the Sight Lines Provisions, including any claims for damages for breach of the Sight Lines Provisions;
 - C. the negotiations conducted to date in relation to the Sight Lines Provisions; or
 - D. any representations made prior to the execution of this deed about development at Central Barangaroo;
 - (ii) this deed may be pleaded as a full and complete defence by any Party to any action, suit or proceedings commenced, continued or

taken by another Party or on its behalf in relation to any of the matters referred to in clause 17(a)(i).

- (b) On execution of this deed, the Parties shall authorise their respective legal representatives to sign on their behalf the notices of discontinuance set out in Schedule 2 to this deed and the Parties shall, on 19 August 2019 cause such signed notices of discontinuance to be filed with the Supreme Court of New South Wales.
- (c) Nothing in the release and discharge referred to in clause 17(a)(i) has the effect of releasing and discharging the Parties from their respective obligations pursuant to this deed.
- (d) The provisions of clauses 1.2, 1.3, 1.4, 1.5, 35 (subject to clauses 3.3(f), 4.1(b) and 4.1(d) of this deed), 54, 56 (subject to INSW's name and address for service of notice being updated and changed to Infrastructure NSW and Level 28, 201 Kent Street, Sydney NSW 2000), 57.1, 57.2, 57.3, 57.4, 57.5, 57.6, 57.8, 57.9, 57.10, 57.11, 57.12, 57.13, 57.14, 57.15, 57.17, 57.19, 57.20, 57.21, 57.22 and 57.25 of the CDA are imported into this deed by reference as if they were set out in this deed in full and as if references to 'this deed' in those clauses are references to this deed.
- (e) The provisions of clause 57.16 of the CDA are imported into this deed by reference as if they were set out in this deed in full and as if references to 'this deed' in those clauses are references to this deed subject to that clause being deemed to include the words "and the Deed of Sightlines Resolution entered into by the parties to this deed" after the words "and the PDA".
- (f) On the date being 20 Business Days after the date of this deed, INSW must pay:
 - (i) LLMP the amount of \$5,000,000 on account of legal costs; and
 - (ii) Crown the amount of \$5,000,000 on account of legal costs.

18. GST

18.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 18 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 18.
- (c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

18.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a Cost or other amount paid or incurred will be limited to the total Cost or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the Cost or amount relates.

18.3 Additional amount of GST payable

Subject to clause 18.5, if GST becomes payable on any supply made by a party (Supplier) under or in connection with this deed:

- (a) any consideration contemplated in or to be provided under any provision of this deed (other than this clause 18), for that supply is exclusive of GST;
- (b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 18.3(b).

18.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 18.3 and clause 18.5), varies from the additional amount paid by the Recipient under clause 18.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 18.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 18.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

18.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 18.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 18.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier a tax invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 18.3 (or the time at which such GST Amount would have been payable in accordance with clause 18.3 but for the operation of clause 18.3(a)).

18.6 Indemnities

- (a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (b) If a party has an indemnity for a cost, the indemnity is for the total cost including any GST component (except for any GST component in respect of which that party (or the representative member of any GST group of which that party is a member) can obtain an input tax credit).

- (c) A party may recover payment under an indemnity before it makes the payment in respect of which the indemnity is given.

18.7 No merger

This clause will not merge on completion or termination of this deed.

19. Confirmation of PDA

- (a) Subject to clause 1.2, the parties to the PDA confirm that the terms of the PDA, as amended by this deed, are and continue to be in full force and effect.
- (b) LLC separately confirms and ratifies each of its obligations under the guarantee contained in clause 49 of the PDA as amended by this deed.

20. Confirmation of CDA

- (a) Subject to clause 1.2, the parties to the CDA confirm that the terms of the CDA, as amended by this deed, are and continue to be in full force and effect.
- (b) Crown Resorts separately confirms and ratifies each of its obligations under the guarantees contained in clauses 45 and 46 of the CDA as amended by this deed.
- (c) LLC separately confirms and ratifies each of its obligations under the guarantees contained in clauses 47 and 48 of the CDA as amended by this deed.

21. Confirmation of Mod 8 Deed

- (a) Subject to clause 1.2, the parties to the Mod 8 Deed confirm that the terms of the Mod 8 Deed, as amended by this deed, are and continue to be in full force and effect.
- (b) LLC separately confirms and ratifies each of its obligations under the guarantee contained in clause 13 of the Mod 8 Deed as amended by this deed.
- (c) Crown Resorts separately confirms and ratifies each of its obligations under the guarantee contained in clause 14 of the Mod 8 Deed.

22. Media statements

The Parties agree that no media statement may be made in respect of the terms of this deed or the existence of this deed until

- (a) the later of 19 August 2019 and the date this deed is entered into; and
- (b) all parties to this deed have agreed to the terms of that media statement.

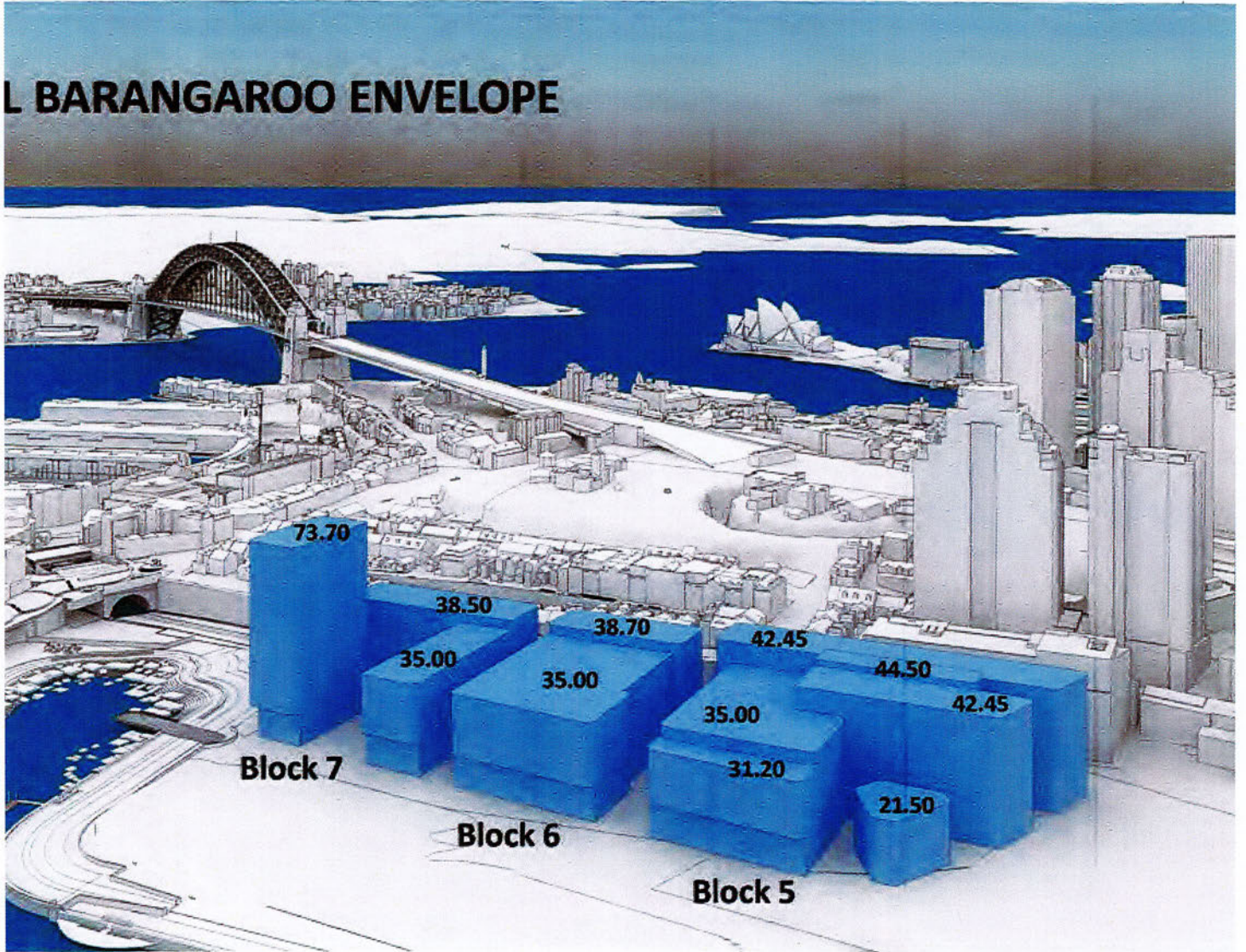
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Schedule 1 – Central Barangaroo Envelope

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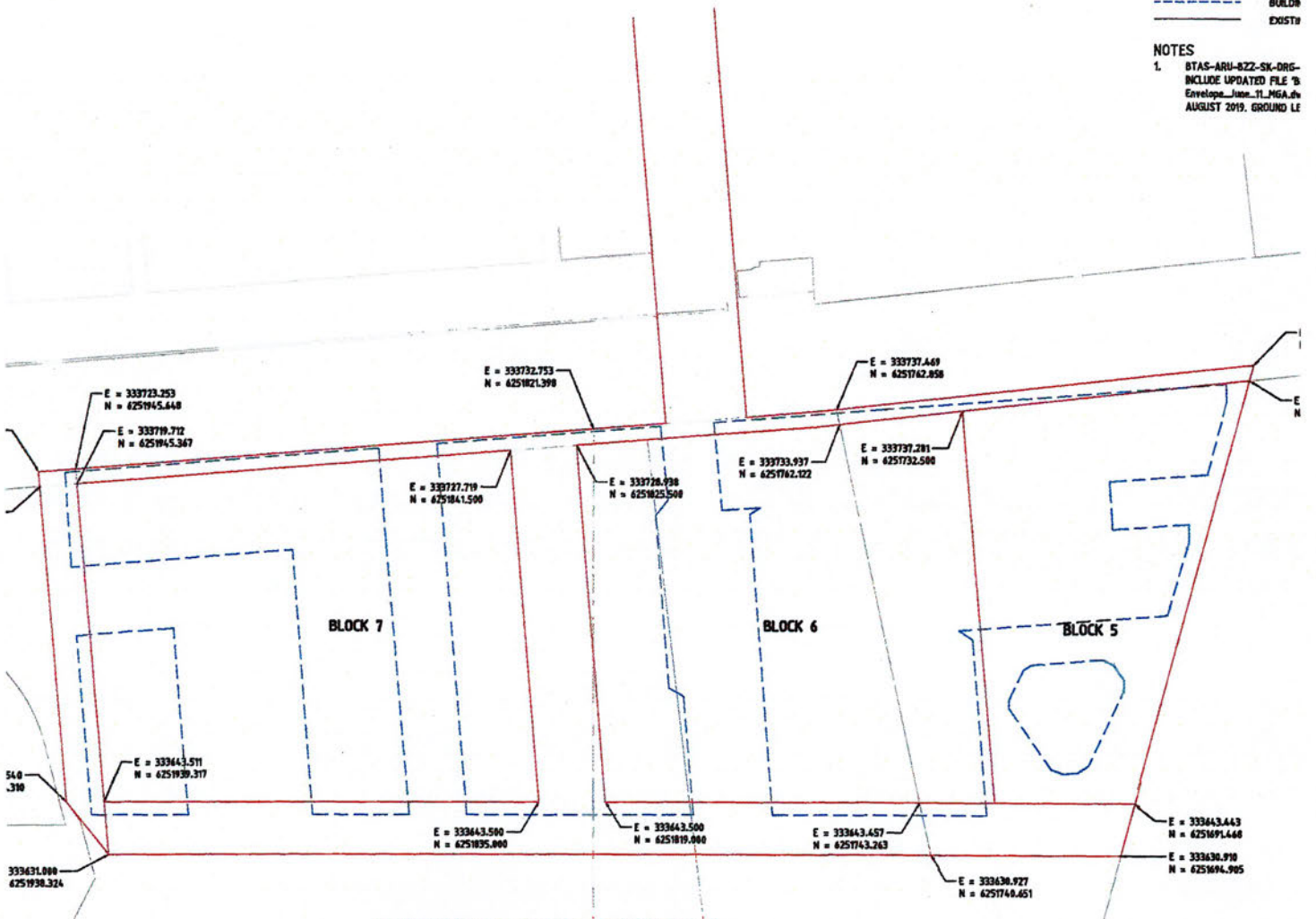


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Schedule 2 – Notices of discontinuanceForm 33 (version 2)
UCPR 12.1**NOTICE OF DISCONTINUANCE****COURT DETAILS**

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List
Registry	Sydney
Case number	2018/244638

TITLE OF PROCEEDINGS

First Plaintiff	Lendlease (Millers Point) Pty Limited as trustee for the Lend Lease (Millers Point) Trust (ACN 127 727 502)
Second Plaintiff	Lendlease Corporation Limited (ACN 000 226 228)
Defendant	Barangaroo Delivery Authority

FILING DETAILS

Filed for	Lendlease (Millers Point) Pty Limited as trustee for the Lend Lease (Millers Point) Trust (ACN 127 727 502) and Lendlease Corporation Limited (ACN 000 226 228)
Filed in relation to	Plaintiffs' claim
Legal representative	John Emmerig, Jones Day
Legal representative reference	654051-625008
Contact name and telephone	
Contact email	

NOTICE DETAILS

- 1 The plaintiffs discontinue the whole of these proceedings.
- 2 The plaintiffs do not represent any other person.
- 3 Each party consents to the discontinuance..

SIGNATURE

Signature of legal representative	
Capacity	Solicitor
Date of signature	

Commercial-in-Confidence

CLAYTON UTZ

TERMS OF DISCONTINUANCE

Consent to the proceedings being discontinued is given on the following terms:

1. There is no order as to costs.

NOTICE OF CONSENT

Defendant

Signature of legal representative

Capacity

Solicitor

Date of signature

Commercial-in-Confidence

CLAYTON UTZ

Form 33 (version 2)
UCPR 12.1**NOTICE OF DISCONTINUANCE****COURT DETAILS**

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List
Registry	Sydney
Case number	2018/00244619

TITLE OF PROCEEDINGS

Plaintiff	Crown Sydney Property Pty Limited (ACN 166 326 861)
Defendant	Barangaroo Delivery Authority

FILING DETAILS

Filed for	Crown Sydney Property Pty Limited (ACN 166 326 861)
Filed in relation to	Plaintiff's claim
Legal representative	Mark Elvy, Ashurst
Legal representative reference	02 3004 9530
Contact name and telephone	
Contact email	

NOTICE DETAILS

- 1 The plaintiff discontinues the whole of these proceedings.
- 2 The plaintiff does not represent any other person.
- 3 Each party consents to the discontinuance..

SIGNATURE

Signature of legal representative	
Capacity	Solicitor
Date of signature	

TERMS OF DISCONTINUANCE

Consent to the proceedings being discontinued is given on the following terms:

1. There is no order as to costs. .

Commercial-in-Confidence

CLAYTON UTZ

NOTICE OF CONSENT

Defendant

Signature of legal representative

Capacity

Solicitor

Date of signature

Commercial-in-Confidence

CLAYTON UTZ

Form 33 (version 2)
UCPR 51.56**NOTICE OF DISCONTINUANCE****COURT DETAILS**

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2019/13054

TITLE OF PROCEEDINGS

Applicant / Cross-Respondent	Barangaroo Delivery Authority
First Respondent / First Cross-Applicant	Lendlease (Millers Point) Pty Limited as trustee for the Lend Lease (Millers Point) Trust (ACN 127 727 502)
Second Respondent / Second Cross-Applicant	Lendlease Corporation Limited (ACN 000 226 228)

PROCEEDINGS IN THE COURT BELOW

Title below	Lendlease (Millers Point) Pty Limited & Anor v Barangaroo Delivery Authority
Court below	Supreme Court of New South Wales
Case number below	2018/244638
Dates of hearing	29 & 30 October and 21, 22, 23, 26, 27, 28 & 29 November 2018
Material date	18 December 2018
Decision of	McDougall J

FILING DETAILS

Filed for	Barangaroo Delivery Authority, Applicant
Legal representative	Tobin Meagher, Clayton Utz
Legal representative reference	842/11250/80104595.002
Contact name and telephone	
Contact email	

NOTICE DETAILS

- 1 The applicant discontinues the whole of the appeal proceedings, being the whole of the application for leave to appeal brought under section 103 of the *Supreme Court Act 1970 (NSW)*.
- 2 The applicant does not represent any other person.
- 3 Each party consents to the discontinuance.

Commercial-in-Confidence

SIGNATURE

Signature of legal representative

Capacity Solicitor

Date of signature

TERMS OF DISCONTINUANCE

Consent to the proceedings being discontinued is given on the following terms:

1. There is no order as to costs.

NOTICE OF CONSENT

First and Second Respondents / First and Second Cross-Applicants

Signature of legal representative

Capacity Solicitor

Date of signature

Commercial-in-Confidence

CLAYTON UTZ

Form 33 (version 2)
UCPR 51.56**NOTICE OF DISCONTINUANCE****COURT DETAILS**

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2019/13054

TITLE OF PROCEEDINGS

Applicant / Cross-Respondent	Barangaroo Delivery Authority
First Respondent / First Cross-Applicant	Lendlease (Millers Point) Pty Limited as trustee for the Lend Lease (Millers Point) Trust (ACN 127 727 502)
Second Respondent / Second Cross-Applicant	Lendlease Corporation Limited (ACN 000 226 228)

PROCEEDINGS IN THE COURT BELOW

Title below	Lendlease (Millers Point) Pty Limited & Anor v Barangaroo Delivery Authority
Court below	Supreme Court of New South Wales
Case number below	2018/244638
Dates of hearing	29 & 30 October and 21, 22, 23, 26, 27, 28 & 29 November 2018
Material date	18 December 2018
Decision of	McDougall J

FILING DETAILS

Filed for	Lendlease (Millers Point) Pty Limited as trustee for the Lend Lease (Millers Point) Trust (ACN 127 727 502) and Lendlease Corporation Limited (ACN 000 226 228), Respondents
Legal representative	John Emmerig, Jones Day
Legal representative reference	654051-625008
Contact name and telephone	
Contact email	

NOTICE DETAILS

- 1 The cross-applicants discontinue the whole of the application for leave to cross-appeal brought under section 103 of the *Supreme Court Act 1970* (NSW).
- 2 The cross-applicants do not represent any other person.
- 3 Each party consents to the discontinuance.

Commercial-in-Confidence

SIGNATURE

Signature of legal representative

Capacity Solicitor

Date of signature

TERMS OF DISCONTINUANCE

Consent to the application being discontinued is given on the following terms:

1. There is no order as to costs.

NOTICE OF CONSENT

Applicant / Cross-Respondent

Signature of legal representative

Capacity Solicitor

Date of signature

Commercial-in-Confidence

CLAYTON UTZ

Form 33 (version 2)
UCPR 51.56**NOTICE OF DISCONTINUANCE****COURT DETAILS**

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2019/13044

TITLE OF PROCEEDINGS

Applicant / Cross-Respondent	Barangaroo Delivery Authority
Respondent / Cross-Applicant	Crown Sydney Property Pty Limited (ACN 166 326 861)

PROCEEDINGS IN THE COURT BELOW

Title below	Crown Sydney Property Pty Limited v Barangaroo Delivery Authority
Court below	Supreme Court of New South Wales
Case number below	2018/244619
Dates of hearing	29 & 30 October and 21, 22, 23, 26, 27, 28 & 29 November 2018
Material date	18 December 2018
Decision of	McDougall J

FILING DETAILS

Filed for	Barangaroo Delivery Authority, Applicant
Legal representative	Tobin Meagher, Clayton Utz
Legal representative reference	842/11250/80104595.002
Contact name and telephone	
Contact email	

NOTICE DETAILS

- 1 The applicant discontinues the whole of the appeal proceedings, being the whole of the application for leave to appeal brought under section 103 of the *Supreme Court Act 1970* (NSW).
- 2 The applicant does not represent any other person.
- 3 Each party consents to the discontinuance.

Commercial-in-Confidence

SIGNATURE

Signature of legal representative

Capacity

Solicitor

Date of signature

TERMS OF DISCONTINUANCE

Consent to the proceedings being discontinued is given on the following terms:

1. There is no order as to costs.

NOTICE OF CONSENT

Respondent / Cross-Applicant

Signature of legal representative

Capacity

Solicitor

Date of signature

Commercial-in-Confidence

CLAYTON UTZ

Form 33 (version 2)
UCPR 51.56**NOTICE OF DISCONTINUANCE****COURT DETAILS**

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2019/13044

TITLE OF PROCEEDINGS

Applicant / Cross-Respondent	Barangaroo Delivery Authority
Respondent / Cross-Applicant	Crown Sydney Property Pty Limited (ACN 166 326 861)

PROCEEDINGS IN THE COURT BELOW

Title below	Crown Sydney Property Pty Limited v Barangaroo Delivery Authority
Court below	Supreme Court of New South Wales
Case number below	2018/244619
Dates of hearing	29 & 30 October and 21, 22, 23, 26, 27, 28 & 29 November 2018
Material date	18 December 2018
Decision of	McDougall J

FILING DETAILS

Filed for	Crown Sydney Property Pty Limited (ACN 166 326 861)
Legal representative	Mark Elvy, Ashurst
Legal representative reference	02 3004 9530
Contact name and telephone	
Contact email	

NOTICE DETAILS

- 1 The cross-applicant discontinues the whole of the application for leave to cross-appeal brought under s 103 of the *Supreme Court Act 1970* (NSW).
- 2 The cross-applicant does not represent any other person.
- 3 Each party consents to the discontinuance.

SIGNATURE

Signature of legal representative	
Capacity	Solicitor
Date of signature	

Commercial-in-Confidence

TERMS OF DISCONTINUANCE

Consent to the application being discontinued is given on the following terms:

1. There is no order as to costs.

NOTICE OF CONSENT

Applicant / Cross-Respondent

Signature of legal representative

Capacity

Solicitor

Date of signature

Commercial-in-Confidence

CLAYTON UTZ

Schedule 3 – Draft Easement for Public Access and Services (Lendlease)

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

(Sheet 1 of 9)

Plan:

Plan of easements within Lot 208 in DP1211553

Full name and address of proprietors of the land:

Infrastructure NSW
167 Macquarie Street
SYDNEY NSW 2000

PART 1 - CREATION

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Easement for public access variable width (PA15) numbered 1 in the plan (Limited in Stratum)	208	Infrastructure NSW
2	Easement for services variable width (S12) numbered 2 in the plan (Limited in Stratum)	208	Lot 214 in DP1221076

Plan:

Plan of easements within Lot 208 in DP1211553

PART 2 – TERMS

1 Interpretation

1.1 Definitions

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

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

Authorised User means every person authorised by the Grantee for the purposes of an easement created by this instrument. Subject to the terms of an easement, an Authorised User includes, without limitation:

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

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

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

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

Council means the City of Sydney Council and its successors.

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

Easement Site means in relation to an easement in this instrument:

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

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

Grantee means:

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

Grantor means the Owner of a Lot Burdened.

Infrastructure NSW means Infrastructure NSW a NSW government agency constituted under the *Infrastructure NSW Act 2011* (and includes any succeeding authority).

(Sheet 3 of 9)

Plan: Plan of easements within Lot 208 in DP1211553

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

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

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

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

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

Owner means each of:

- (a) if a lot has been subdivided by Strata Plan, the Owners Corporation;
- (b) the holder of any Long Term Lease; and
- (c) the owner of the freehold of the lot.

Owners Corporation means an owners corporation for a Strata Scheme.

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

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

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

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

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

Shared Facilities has the meaning given to that term in the Building Management Statement.

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

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

Plan: Plan of easements within Lot 208 in DP1211553

1.2 References to certain terms

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

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

1.3 Headings

Headings do not affect the interpretation of this instrument.

1.4 Positive covenants and maintenance requirements

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

2 Interpretation

2.1 Application of this clause

This clause applies to each easement in this instrument, except where the contrary intention is expressed.

2.2 Covenants and agreements

The easements in this instrument are covenants and agreements between:

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

(Sheet 5 of 9)

Plan: Plan of easements within Lot 208 in DP1211553

2.3 Release

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

2.4 Notice to owner

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

2.5 Release and modification

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

3 Easement for public access (PA15) variable width numbered 1 in the plan

3.1 Grant

Subject to clauses 3.3, and 3.4, the owner of the freehold of the Lot Burdened grants to the Grantee, its Authorised Users and all members of the public, an unrestricted right to pass and repass over the Easement Site on the Lot Burdened:

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

3.2 Prohibitions

The Owner of the Lot Burdened must not obstruct the use of the Easement Site on the Lot Burdened in accordance with clause 3.1.

Plan: Plan of easements within Lot 208 in DP1211553

3.3 Limitations on Easement Site

Despite any other provision of this clause 3, the rights and obligations of the Grantee and the Grantor under this easement are limited and do not apply in respect of a part of the Easement Site and are suspended for any period during which the Grantor considers acting reasonably that access to that part of the Easement Site would be unsafe, and in this regard the Grantor must (if requested) permit Infrastructure NSW to have reasonable access to the relevant Easement Site to repair or make safe the unsafe part of the Easement Site.

3.4 Release of easement on dedication as public reserve or public road

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

- (a) subject to rights of access equivalent to the rights under this easement being created upon the dedication to the relevant Roads Authority or Council (whether by declaration, regulation or statutory operation), this easement will cease to have effect in respect of the part of the Easement Site the subject of the dedication;
- (b) the owner of the freehold of the Lot Burdened will be entitled to have this easement and notation for this easement removed from the title to the Lots Burdened in respect of the part of the Easement Site the subject of the dedication; and
- (c) the owner of the freehold of the Lot Burdened and the Grantee must, as soon as reasonably practicable, do all things and sign all documents necessary to remove this easement from the title to the part of the Lot Burdened as referred to in clause 3.4(b), including signing any plans, requests or other dealings and producing certificates of title at NSW Land Registry Services as required for registration.

The owner of the freehold of the Lot Burdened and Grantee must at all times ensure that this easement remains in effect and registered on the title to the Lot Burdened in respect of the remainder of the Easement Site to which clause 3.4(a) does not apply.

4 Terms of Easement for services variable width (S12) numbered 2 in the Plan

4.1 Grant

An easement for services in the terms of section 196L of the Act is created in respect of all wires, cables, conduits, equipment and other structures and things relating to Services and drainage (as defined in section 196L) which pass through or are situated in the Lot Burdened and service the Lot Benefited as at the date of registration of this instrument.

4.2 Variations to Conveyancing Act provisions

The provisions of Schedule 8B of the Act are varied as follows:

- (a) except in an emergency, a Grantee and its Authorised Users must give the Grantor or its nominee at least 48 hours' notice of their intention to enter the Lot Burdened;
- (b) if required by the Grantor, when exercising rights or complying with obligations a Grantee and its Authorised Users must be accompanied by and comply with the directions of the Grantor (or that owner's nominee);

(Sheet 7 of 9)

Plan: Plan of easements within Lot 208 in DP1211553

- (c) in an emergency, a Grantee and its Authorised Users must give the Grantor notice of access to the Lot Burdened as soon as practicable;
- (d) a Grantee and its Authorised Users must not require access to the Lot Burdened during business hours or hours which would detrimentally affect the business carried on by the Grantor or the occupant of the Lot Burdened (except in an emergency);
- (e) except where prior arrangements have been made with the Grantor or in an emergency, the Grantee and its Authorised Users must not disrupt any Service to the Lot Burdened in circumstances where the Grantor or occupant of the Lot Burdened may suffer interruption to the business or commercial activities lawfully conducted on the Lot Burdened; and
- (f) except as provided for in clause 4.3 ("Attachments of a minor nature"), the Grantee and its Authorised Users must not carry out any works to the structure of any buildings and infrastructure located on the Lot Burdened unless:
 - (i) the Grantor gives its approval to the works proposed to be carried out (which approval must not be unreasonably withheld or delayed);
 - (ii) the Grantee, at its own cost, consults with a structural engineer or services engineer (as applicable) nominated by the Grantor; and
 - (iii) the Grantee ensures that the recommendations of the structural engineer or services engineer are carried out.

4.3 Attachments of a minor nature

Clause 4.2(f) does not apply to attachments of a minor nature that do not affect the structural integrity of the building, Shared Facilities or infrastructure located on the Lot Burdened (for example, attaching a pipe to existing Services).

4.4 Additional requirements when exercising rights

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

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

Plan: Plan of easements within Lot 208 in DP1211553

- (b) ensure that any person carrying out works on Services on their behalf is qualified or licensed (if a licence is required at law) to do those works;
- (c) ensure that all work is:
 - (i) done properly and in accordance with requirements of Government Agencies (if applicable); and
 - (ii) completed as quickly as practicable;
- (d) repair damage which they cause to a Service owned by the Grantor located in the Lot Burdened;
- (e) restore the Lot Burdened as nearly as practicable to its former condition;
- (f) make good any collateral damage;
- (g) comply with any relevant requirements under the Building Management Statement; and
- (h) not interfere with the structural integrity of the building or any infrastructure located on the Lot Burdened without the prior written consent of the Grantor, which consent must not be unreasonably withheld.

4.5 Effect of a subdivision

If a Strata Plan subdividing any Lot Burdened is registered resulting in the creation of an easement for services under section 9 of the Development Act:

- (a) the provisions of Schedule 1 of the Development Act are varied as set out in clause 4.2 of this easement; and
- (b) if there is an inconsistency between the terms of this easement and the easement created under section 9 of the Development Act, then to the extent of that inconsistency the terms of the easement under section 9 of the Development Act apply.

4.6 Maintaining Services

Subject to any contrary requirements under a Building Management Statement, the Grantee must maintain its own Services.

4.7 Additional Obligations:

The Grantee:

- (a) acknowledges that some of the Services under this easement are being used in common with the Grantor;
- (b) must not interfere with any of the Services for the Lot Burdened located within the Easement Site from time to time; and
- (c) agrees that nothing in this clause 5 restricts the right for the Grantor to install, construct, lay or place wires, cables, conduits, equipment and other structures and

(Sheet 9 of 9)

Plan: Plan of easements within Lot 208 in DP1211553

things relating to Services and drainage (as defined in section 196L of the Act) within the Lot Burdened, whether or not those wires, cables, conduits, equipment and other structures and things relating to Services and drainage service a Lot Benefited, provided that the wires, cables, conduits, equipment and other structures and things relating to Services and drainage do not interfere with any Service that services the Lot Benefited.

Certified correct for the purposes of the Real Property Act 1900

SIGNED by)
)
 as delegate of **Infrastructure NSW**)
 in the presence of:)
)
)
 Signature of witness)
)
)
 Name of witness (block letters))
)

.....
Signature of

By executing this instrument the delegate states that the delegate has received no notice of revocation of the delegation.

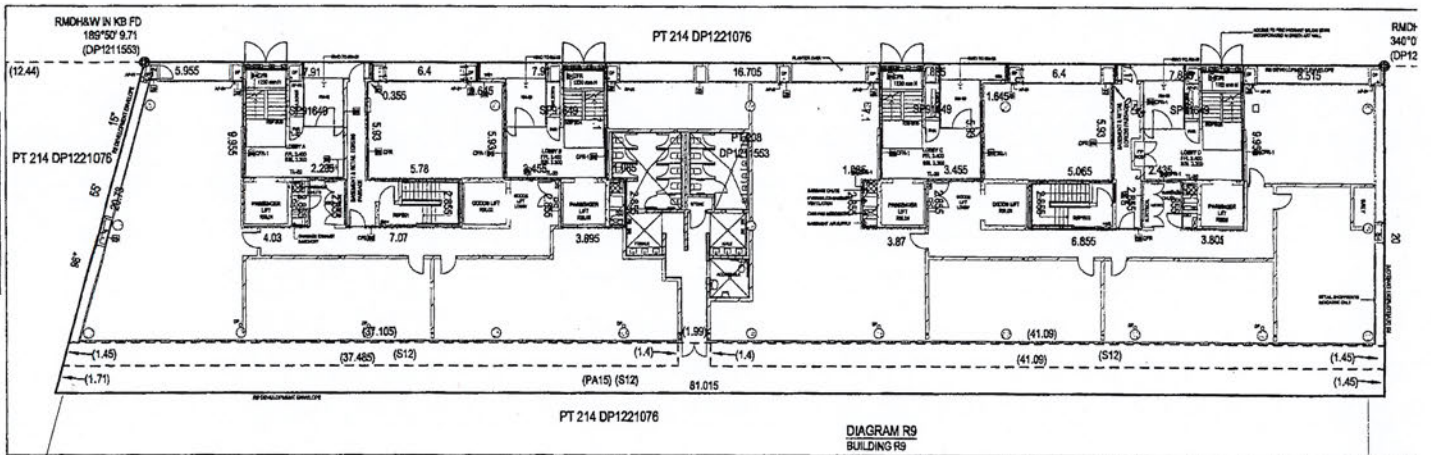
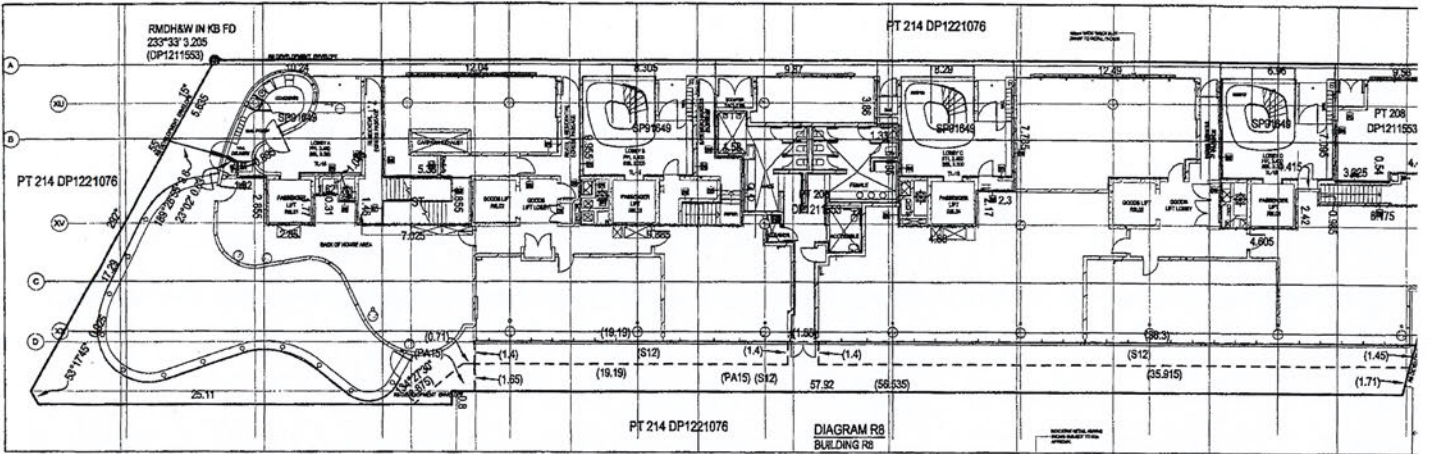
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Schedule 4 – Lendlease Easement Plans

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION



SEE ABOVE FOR CONTINUATION

EASEMENTS
 (PA15) EASEMEN
 (S12) EASEMEN
STRATUM NOTES
 (PA15) IS LIMITED
 LIMITED IN HEIGP
 (S12) IS LIMITED I
 LIMITED IN DEPTI

ALL INTERNA
 OR 83°40'15"

GROUND LEVEL

SURVEYOR Name: PATRICK JOHN WALSH Date: 1/8/2019 Reference: 1400 R89 PA15		PLAN OF EASEMENTS WITHIN LOT 208 IN DP1211553		LGA: SYDNEY Locality: BARANGAROO Reduction Ratio 1: 200 Lengths are in metres		Registered	
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Commercial-in-Confidence

CLAYTON UTZ

Schedule 5 – Public Domain Licensed Area to be included as part of demise of the Hotel Resort Lease

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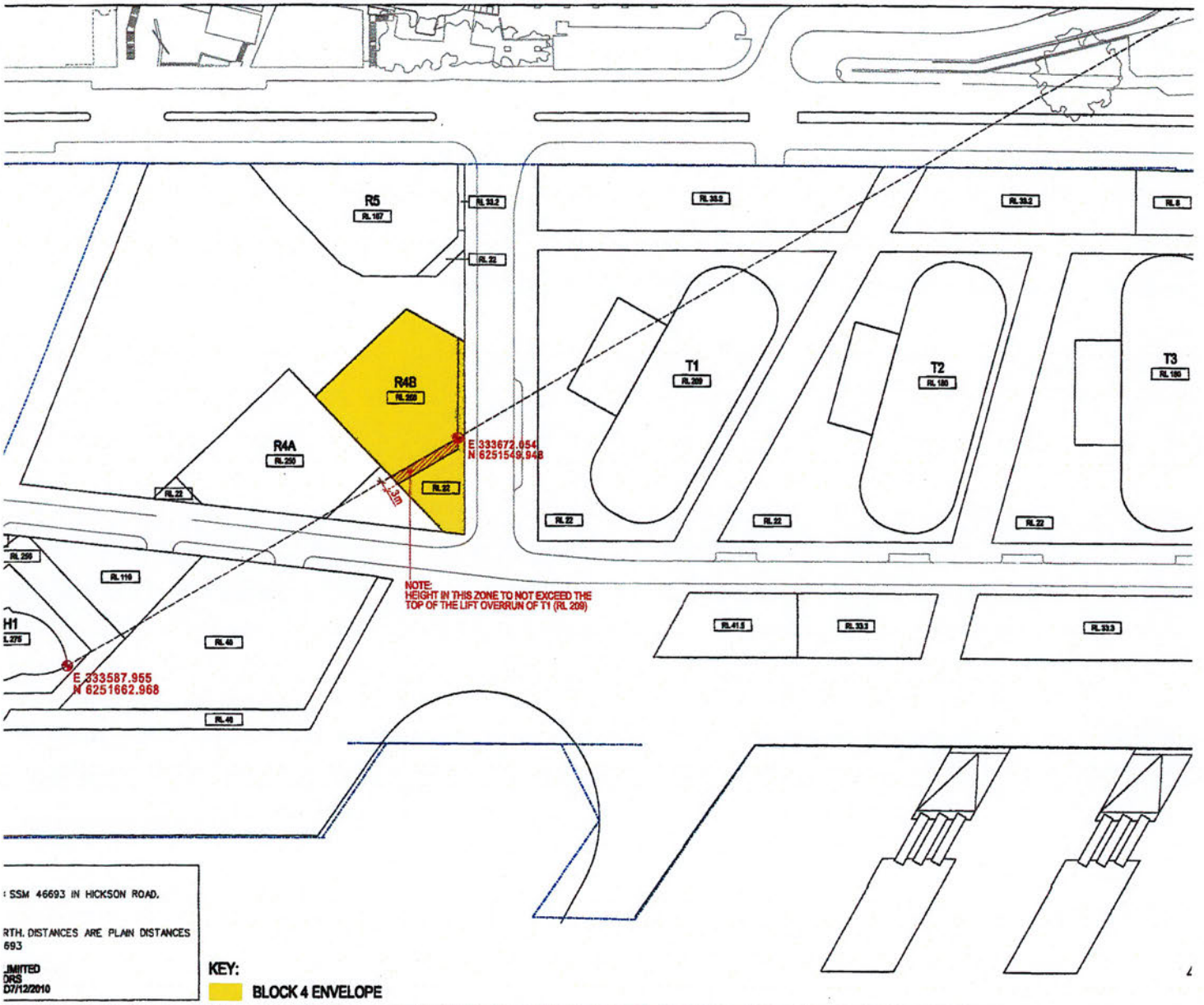
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CLAYTON UTZ

Schedule 6 – Block 4 Envelope

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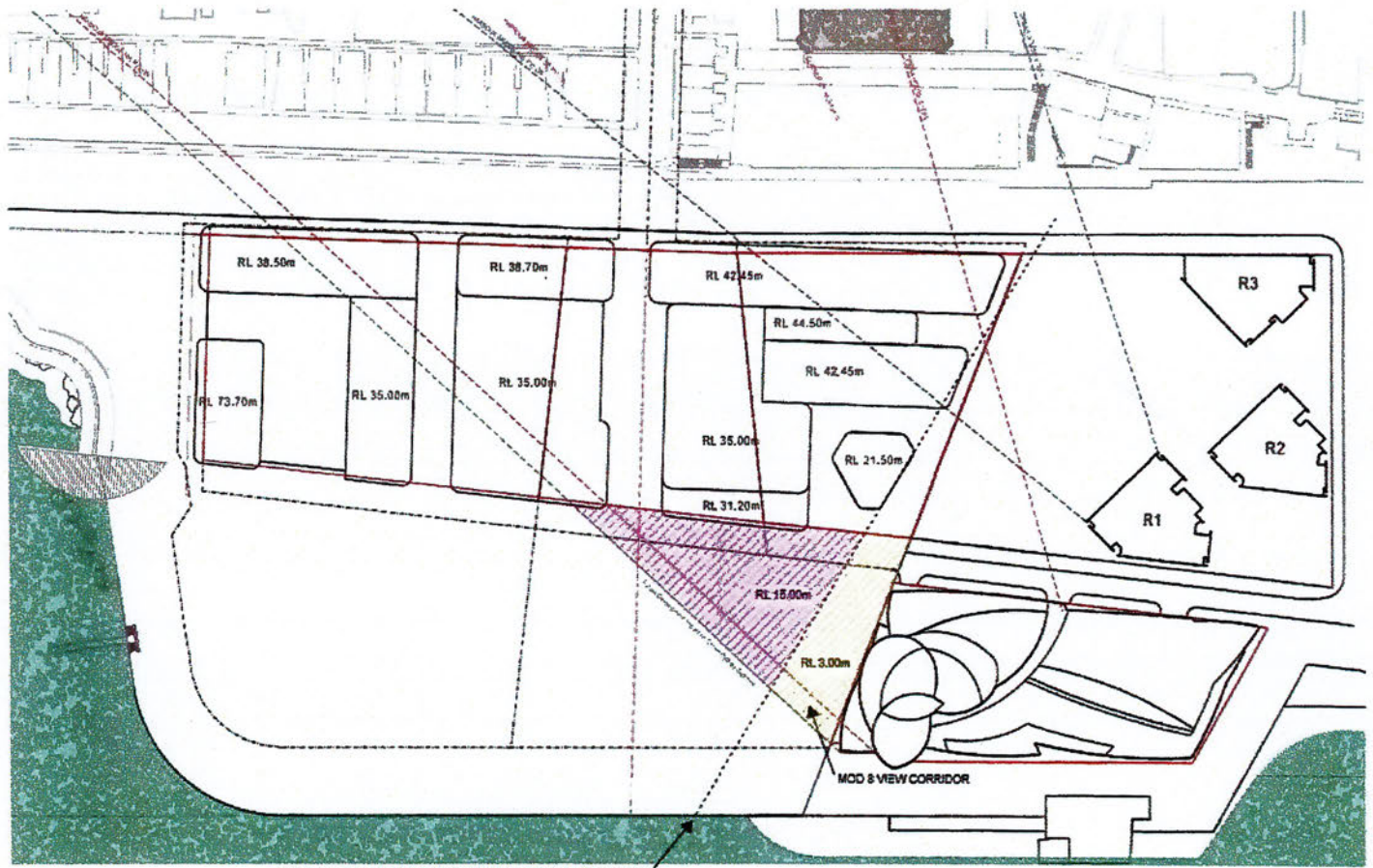


BARBARADO SOUTH
STAGE 1B | DEED OF SIGHTLINES RESOLUTION
ANNEXURE 6

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Sightline Analysis

BDA June 2019 Envelope Including Foreshore Agreement



PARALLEL LINE FROM SOUTHERN FACE OF CENTRAL BUILDING BLDG

STRICTLY CONFIDENTIAL - LEGAL PRIVILEGE AND COMMON INTEREST PRIVILEGE APPLIES. THIS DOCUMENT HAS BEEN PRODUCED FOR THE SETTLEMENT NEGOTIATION PURPOSES FOR THE SIGHTLINES DISPUTES

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Schedule 8 – Draft Easement for Public Access Crown

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

(Sheet 1 of 6)

Plan:

Plan of easements within Lot [insert] in DP [insert]

Full name and address of proprietors of the land:

Infrastructure NSW
167 Macquarie Street
SYDNEY NSW 2000

PART

1 - CREATION

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Easement for public access variable width (PA1) numbered 1 in the plan (Limited in Stratum)	[insert]	Infrastructure NSW

Plan:

Plan of easements within Lot [#] DP [insert]

PART 2 – TERMS

1 Interpretation

1.1 Definitions

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

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

Authorised User means every person authorised by the Grantee for the purposes of an easement created by this instrument. Subject to the terms of an easement, an Authorised User includes, without limitation:

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

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

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

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

Council means the City of Sydney Council and its successors.

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

Easement Site means in relation to an easement in this instrument:

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

Grantee means an Authority benefited.

Grantor means the Owner of a Lot Burdened.

Infrastructure NSW means Infrastructure NSW a NSW government agency constituted under the *Infrastructure NSW Act 2011* (and includes any succeeding authority).

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

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

(Sheet 3 of 6)

Plan: Plan of easements within Lot [#] in

Owner means each of:

- (a) if a lot has been subdivided by Strata Plan, the Owners Corporation;
- (b) the holder of any Long Term Lease; and
- (c) the owner of the freehold of the lot.

Owners Corporation means an owners corporation for a Strata Scheme.

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

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

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

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

1.2 References to certain terms

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

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

1.3 Headings

Headings do not affect the interpretation of this instrument.

2 Interpretation

2.1 Application of this clause

This clause applies to each easement in this instrument, except where the contrary intention is expressed.

Plan: Plan of easements within Lot [#] in

2.2 Covenants and agreements

The easements in this instrument are covenants and agreements between:

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

2.3 Release

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

2.4 Notice to owner

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

2.5 Release and modification

- (a) The easements in this instrument may only be released or modified with the consent of each Grantor and each Authority that is benefited.
- (b) A release or modification of an easement will not affect a party's right under the Building Management Statement.

Plan: Plan of easements within Lot [#] in

3 Easement for public access (PA1) variable width numbered 1 in the Plan

3.1 Grant

Subject to clauses 3.3 and 3.4, the owner of the freehold of the Lot Burdened grants to the Grantee, its Authorised Users and all members of the public, an unrestricted right to pass and repass over the Easement Site on the Lot Burdened:

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

3.2 Prohibitions

The Owner of the Lot Burdened must not obstruct the use of the Easement Site on the Lot Burdened in accordance with clause 3.1 except as permitted in clause 3.3.

3.3 Limitations on Easement Site

Despite any other provision of this clause 3, the rights and obligations of the Grantee and the Grantor under this easement are limited and do not apply in respect of a part of the Easement Site and are suspended for any period during which the Grantor considers acting reasonably that access to that part of the Easement Site:

- (a) should be restricted to comply with any law;
- (b) would be unsafe, and in this regard the Grantor must (if requested) permit Infrastructure NSW to have reasonable access to the relevant Easement Site to repair or make safe the unsafe part of the Easement Site; or
- (c) should be restricted (on a temporary basis) to enable the holder of the Long Term Lease of the Lot Burdened to maintain or repair the Easement Site.

3.4 Release of easement on dedication as public reserve or public road

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

- (a) subject to rights of access equivalent to the rights under this easement being created upon the dedication to the relevant Roads Authority or Council (whether by declaration, regulation or statutory operation), this easement will cease to have effect in respect of the part of the Easement Site the subject of the dedication;
- (b) the owner of the freehold of the Lot Burdened will be entitled to have this easement and notation for this easement removed from the title to the Lots Burdened in respect of the part of the Easement Site the subject of the dedication; and
- (c) the owner of the freehold of the Lot Burdened and the Grantee must, as soon as reasonably practicable, do all things and sign all documents necessary to remove this

Plan: Plan of easements within Lot [#] in

easement from the title to the part of the Lot Burdened as referred to in clause 3.4(b), including signing any plans, requests or other dealings and producing certificates of title at NSW Land Registry Services as required for registration.

The owner of the freehold of the Lot Burdened and Grantee must at all times ensure that this easement remains in effect and registered on the title to the Lot Burdened in respect of the remainder of the Easement Site to which clause 3.4(a) does not apply.

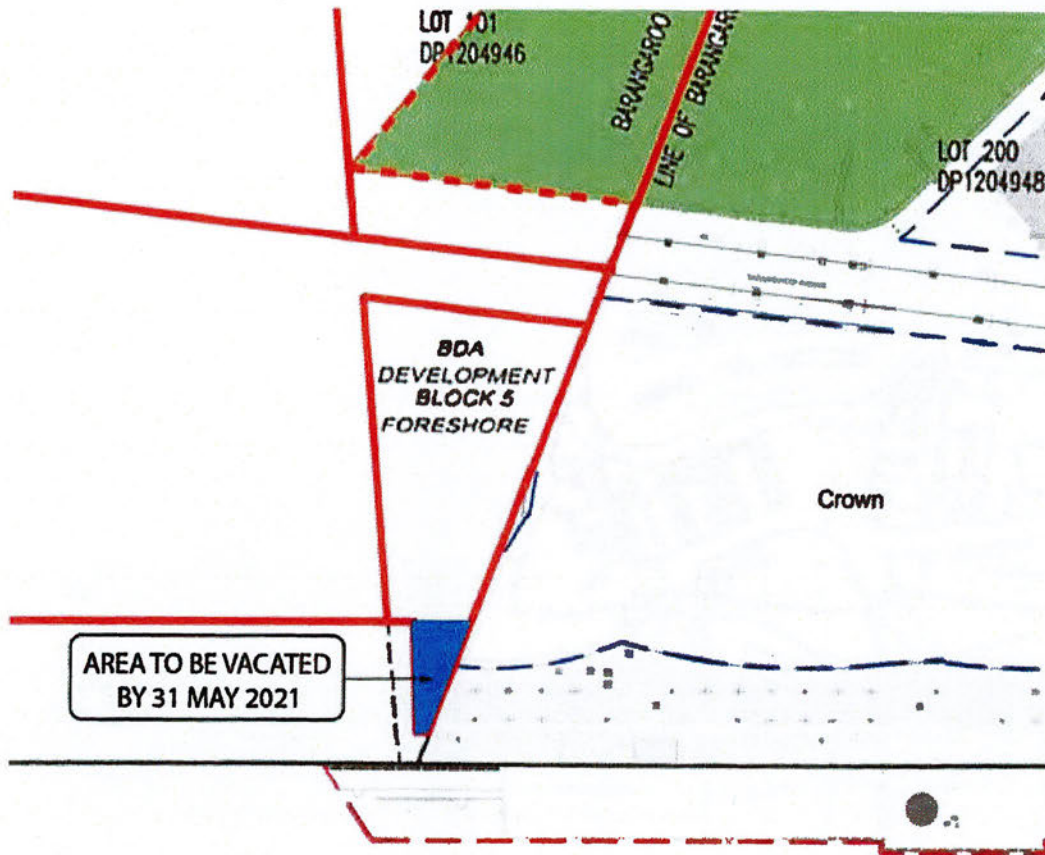
Certified correct for the purposes of the Real Property Act 1900

SIGNED by)
)
as delegate of **Infrastructure NSW**)
in the presence of:)
)
.....)
Signature of witness)
)
.....)
Name of witness (block letters))
)

.....
Signature of

By executing this instrument the delegate states that the delegate has received no notice of revocation of the delegation.

Schedule 9 – Foreshore Block 5 area to be released by 31 May 2021



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Commercial-in-Confidence

CLAYTON UTZ

Executed as a Deed

Signed, sealed and delivered for and on behalf of Lendlease (Millers Point) Pty Limited ABN 15 127 727 502 as trustee of the Lendlease Millers Point Trust ABN 96 367 164 by its attorney under a power of attorney dated in the presence of:

Signature of attorney:

Name of witness:

Name of attorney:

Signed, sealed and delivered for and on behalf of Lendlease Corporation Limited ABN 32 000 226 228 by its attorney under a power of attorney dated in the presence of:

Signature of attorney:

Name of witness:

Name of attorney:

Executed on behalf of Infrastructure NSW by its duly authorised officer in the presence of:

Signature of witness

Signature of authorised officer

TIM COBERTSON
Name of witness

SIMON DRAPER
Name of authorised officer

Address of witness

Chief Executive Officer
Capacity of authorised officer

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Commercial-in-Confidence

Executed by Crown Sydney Property Pty Limited ACN 166 326 861 in accordance with section 127 of the Corporations Act:

Signature of Director / Secretary

Signature of Director

Name of Director / Secretary in full

Name of Director in full

Executed by Crown Resorts Limited ACN 125 709 953 in accordance with section 127 of the Corporations Act:

Signature of Director / Secretary

Signature of Director

Name of Director / Secretary in full

Name of Director in full