

23 May 2014

Brendan Hoskins  
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**Your reference:**

Putney Hill

**Our reference:**

2800221

Dear Mr Hoskins

**Comments on Item 3 of Royal Rehab Submission on Modification to Concept Plan 05\_0001**

I refer to your request that we provide you with our comments on the terms and conditions of the Right of Carriageway which is contained in DP 1129793 which benefits Frasers Putney Pty Limited and burdens Royal Rehab.

We comment as follows in relation to the right of carriageway (**ROC**):

- (1) the ROC is 12.3 and 19.1 wide and variable width. The ROC is denoted 'P' on DP1129793. A copy of page 1 of DP 1129793 is **attached**. We have identified the ROC by cross highlighting it in orange and inserting a number of 'X' marks on the orange area;
- (2) the ROC burdens Lot 5 in DP 1129793 and benefits lots 4,6 and 7 in DP 1129793;
- (3) the registered proprietor of Lot 5 in DP 1129793 (i.e. the burdened lot) is Royal Rehab; and
- (4) the registered proprietor of lots 4, 6 and 7 in DP 1129793 (i.e. the benefitted lots) is Frasers Putney Pty Limited;
- (5) the terms and condition of the ROC are set out in full in item 3 of the section 88B Instrument DP 1129793 which creates the ROC. We have repeated the terms and conditions below:

**“3.1 Grant of right of carriageway**

*The Grantor grants the Grantee and its Authorised Users the right and liberty to go, pass and repass at any time over the Site with or without Equipment for the purpose of accessing Charles Street.”*

**3.2 Terms of use**

*The Grantee:*

- (a) *uses the Site at its own risk;*

APAC-#22679499-v3

- (b) *must not, and must ensure that any Authorised Users do not, use the Site for any purpose other than the purpose described in clause 3.1;*
- (c) *must not, and must ensure that Authorised Users do not, do anything in the Site which could cause danger, disturbance or inconvenience to others in the adjoining lands;*
- (d) *must keep clean and free from rubbish the Site;*
- (e) *must cause as little damage as possible to the Site;*
- (f) *must comply with, and procure that any Authorised Users comply with, the Grantor's reasonable requirements and directions in connection with the operations, safety and security of the Site;*
- (g) *must rectify and repair at its cost any damage occasioned to the Site as a result of the use and occupation of the Site by the Grantee or its Authorised Users, promptly and in a good and workmanlike manner in accordance with requirements of Authorities;*
- (h) *must, if requested and then within 10 Business Days after being so requested, pay to the Grantor one-third each of the costs the Grantor incurs in complying with its obligation under clause 3.3; and*
- (i) *indemnifies the Grantor against any Costs incurred as a result of the negligent, malicious or wilful use and occupation of the Site by the Grantee or its Authorised Users.*

### 3.3 **Maintenance**

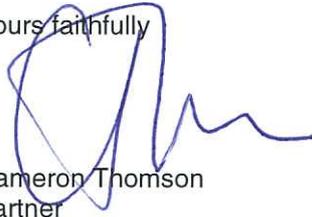
*The Grantor will:*

- (a) *at all times, maintain all trafficable surfaces in the Site;*
  - (b) *not permit the Site to fall into disrepair so that:*
    - (i) *use of the Site under this easement becomes a hazard or a nuisance; or*
    - (ii) *access over the Site by the Grantee and its Authorised Users becomes difficult, impracticable or impossible;*
  - (c) *not obstruct or impede access over the access roads constructed on the Servient Tenement; and*
  - (d) *ensure that any development activities on the Servient Tenement preserve those access roads so that the Grantee can access land adjoining the Servient Tenement and in particular so it can access Lot 4, Lot 6 and Lot 7 in the Plan from Charles Street.*
- (6) In the Interpretation section of the section 88B instrument, **"Equipment"** means all necessary tool, implements, materials, machinery and vehicles"
- (7) In conclusion, Frasers Putney Pty Limited (and its successors in title) may access Charles Street by utilising the ROC. The right to use the ROC does not change if there is a change in vehicle numbers using the ROC, as all users must comply with the terms of use referred to in the ROC.

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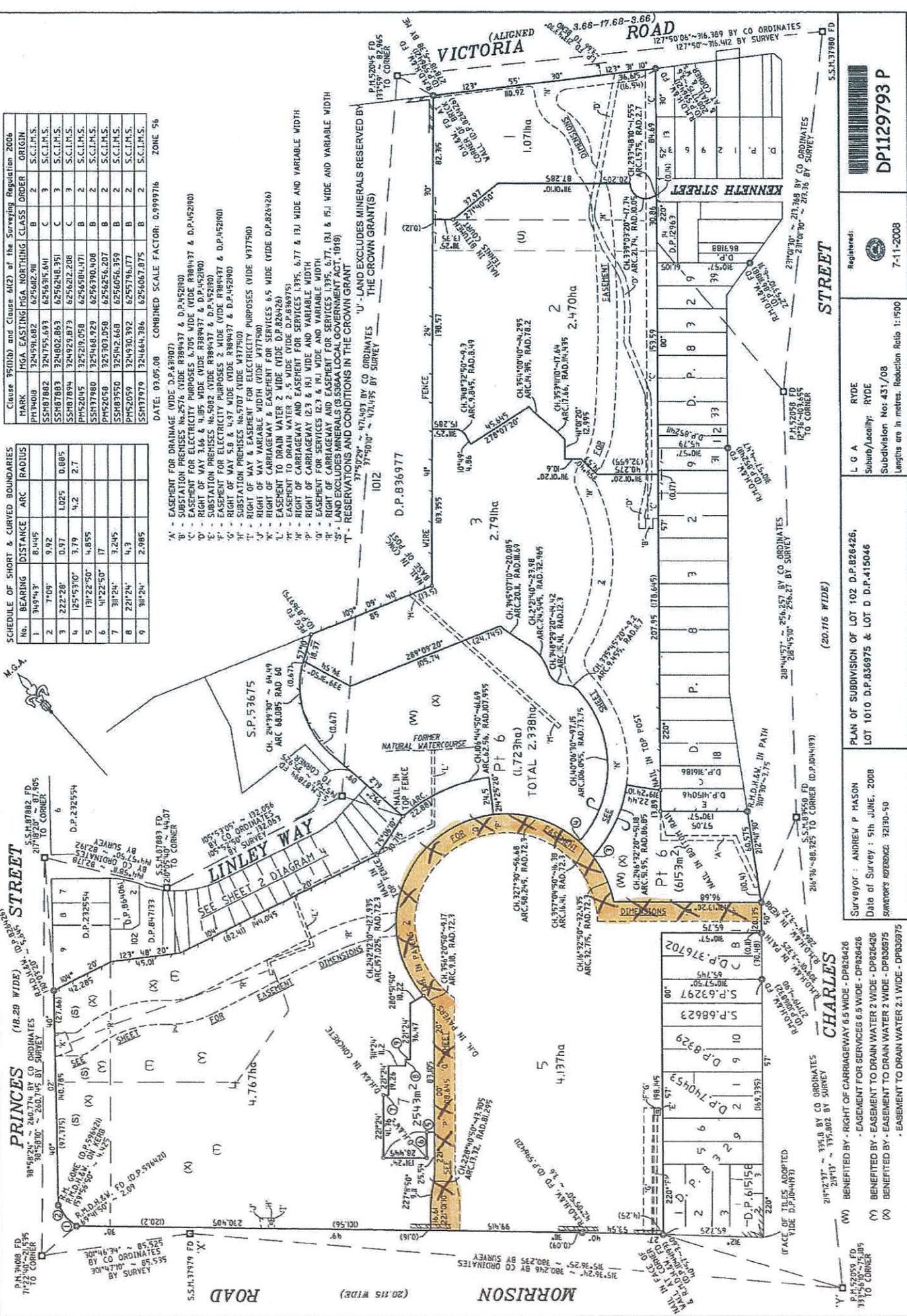
 NORTON ROSE FULBRIGHT

Yours faithfully



Cameron Thomson  
Partner  
Norton Rose Fulbright Australia

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION



MARK	HGA EASTING	HGA NORTHING	CLASS	ORDER	ORIGIN
PH4000	324991.082	625002.901	B	2	S.C.I.M.S.
55H87882	324995.681	625691.641	C	3	S.C.I.M.S.
55H87883	324802.863	625624.351	C	3	S.C.I.M.S.
55H87884	324929.873	625624.208	C	3	S.C.I.M.S.
PH52005	325219.058	625651.471	B	2	S.C.I.M.S.
55H17980	325448.929	625639.008	B	2	S.C.I.M.S.
PH62058	325303.058	625625.207	B	2	S.C.I.M.S.
55H83550	325422.668	625605.359	B	2	S.C.I.M.S.
PH52059	324930.392	625579.617	B	2	S.C.I.M.S.
55H17979	324664.386	625606.875	B	2	S.C.I.M.S.

DATE: 03.05.08 COMBINED SCALE FACTOR: 0.9999716 ZONE 56

'A' - EASEMENT FOR DRAINAGE (VIDE D.P. 61907)  
 'B' - EASEMENT FOR DRAINAGE (VIDE R89437 & D.P. 45280)  
 'C' - EASEMENT FOR ELECTRICITY PURPOSES & EASEMENT FOR SERVICES (VIDE R89437 & D.P. 45280)  
 'D' - EASEMENT FOR ELECTRICITY PURPOSES & EASEMENT FOR SERVICES (VIDE R89437 & D.P. 45280)  
 'E' - EASEMENT FOR ELECTRICITY PURPOSES & EASEMENT FOR SERVICES (VIDE R89437 & D.P. 45280)  
 'F' - EASEMENT FOR ELECTRICITY PURPOSES & EASEMENT FOR SERVICES (VIDE R89437 & D.P. 45280)  
 'G' - RIGHT OF WAY 5.6 & 4.97 WIDE (VIDE R89437 & D.P. 45280)  
 'H' - SUBSTATION PREMISES NO. 5707 (VIDE W37750)  
 'I' - RIGHT OF WAY & EASEMENT FOR ELECTRICITY PURPOSES (VIDE W37750)  
 'J' - RIGHT OF WAY & EASEMENT FOR ELECTRICITY PURPOSES (VIDE W37750)  
 'K' - RIGHT OF WAY & EASEMENT FOR ELECTRICITY PURPOSES (VIDE W37750)  
 'L' - EASEMENT TO DRAIN WATER 2.5 WIDE (VIDE D.P. 826426)  
 'M' - EASEMENT TO DRAIN WATER 2.5 WIDE (VIDE D.P. 826426)  
 'N' - RIGHT OF CARRIAGEWAY & EASEMENT FOR SERVICES 1.95, 6.77 & 13.1 WIDE AND VARIABLE WIDTH  
 'O' - RIGHT OF CARRIAGEWAY & EASEMENT FOR SERVICES 1.95, 6.77 & 13.1 WIDE AND VARIABLE WIDTH  
 'P' - RIGHT OF CARRIAGEWAY & EASEMENT FOR SERVICES 1.95, 6.77 & 13.1 WIDE AND VARIABLE WIDTH  
 'Q' - EASEMENT FOR SERVICES 12.3 & 19.1 WIDE AND VARIABLE WIDTH  
 'R' - RIGHT OF CARRIAGEWAY & EASEMENT FOR SERVICES 12.3 & 19.1 WIDE AND VARIABLE WIDTH  
 'S' - RIGHT OF CARRIAGEWAY & EASEMENT FOR SERVICES 12.3 & 19.1 WIDE AND VARIABLE WIDTH  
 'T' - RESERVATIONS AND CONDITIONS IN THE CROWN GRANT

'U' - LAND EXCLUDES MINERALS RESERVED BY THE CROWN GRANT(S)  
 'V' - LAND EXCLUDES MINERALS RESERVED BY THE CROWN GRANT(S)  
 'W' - LAND EXCLUDES MINERALS RESERVED BY THE CROWN GRANT(S)  
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