

## WASTE COLLECTION EASEMENT

### 1) Grant of an easement

The registered proprietor of the lot burdened grants the full and free right for the Council in whose favour this easement is created, and every person authorised by the Council (Authorised Persons), to go, pass and re-pass at all times over the lot burdened, with or without vehicles, for the purpose of collecting and removing garbage, recycling and refuse from the lot burdened and for all incidental purposes.

### 2) Covenant for maintenance and repair

The registered proprietor of the lot burdened covenants, under section 88BA of the *Conveyancing Act 1919*, at its cost and at all times, to:

- a. keep all trafficable surfaces of the lot burdened in good and substantial repair and condition;
- b. apply protective measures on all trafficable surfaces on the lot burdened, in accordance with industry standards and Council's requirements, to ensure the traction of heavy vehicles;
- c. ensure that there are no obstructions or encroachments (including, without limitation, overhanging cables, pipes, conduits, ducts or trees within the lot burdened);
- d. remove any such obstructions or encroachments within the lot burdened; and
- e. maintain, repair, replace, reinstate and renew all trafficable surfaces of the lot burdened (including protective traction measures),

sufficient to enable the Council and its Authorised Persons to exercise their rights under this easement safely and without impediment.

### 3) Insurance

The registered proprietor of the lot burdened must, at its cost, obtain and, at all times, keep current a public risk insurance policy for an amount of not less than \$20 million (or such greater amount as required by the Council from time to time), noting the Council's interest, with a reputable insurer in the State of New South Wales which will cover liability in respect of any accident or damage to property or death of or injury to any person on the lot burdened arising from the exercise of the rights granted to the Council and its Authorised Persons under this easement.

### 4) Release

The registered proprietor of the lot burdened releases the Council and its Authorised Persons from all claims and demands of every kind and from all liabilities which may arise in respect of any accident or damage to property or death of or injury to any person on the lot burdened arising from the exercise of the rights granted to the Council and its Authorised Persons under this easement other than as may be caused or contributed to by the wilful or negligent act or omission of the Council and its Authorised Persons.

### 5) Indemnity

The registered proprietor of the lot burdened indemnifies the Council and its Authorised Persons from and against all claims, actions, demands, losses, damages, costs and expenses incurred by the Council or for which the Council and its Authorised Persons may become liable in respect of any loss, damage, death or injury from any cause whatsoever on the lot burdened or to any personal property with or without the lot burdened, occasioned or contributed to by any act, omission, negligence or breach of the terms of this easement, arising from the exercise of the rights granted to the Council and its Authorised Persons under this easement, other than as may be caused or contributed to by the wilful or negligent act or omission of the Council and its Authorised Persons.

6) Name of authority empowered to release, vary or modify this easement

Hornsby Shire Council