

Deed poll for sublicence of berthing area



Land and Property
Management Authority

This deed poll made on the _____ day of
_____ month _____ year

By _____

Of _____
(in this Deed called 'You and Your')

For the benefit of: _____ the Minister for Lands, being the Minister administering the *Crown Lands Act 1989*
(in this deed called 'the Minister').

Recitals

1. The Minister has granted to _____ of

_____ (in this deed poll called 'the Licensee') a domestic waterfront licence (in this deed poll called 'the Licence').

2. The Licensee has given You a sublicence (in this deed poll called 'the Sublicence') of a berthing right over part of the land subject to the Licence containing a condition requiring you to give this deed poll.

3. The land subject to the Licence (in this deed poll called 'the Land') is described in the schedule to this deed poll and includes any submerged land or waterway.

4. The indemnity given by this deed poll benefits the Minister and the Crown.

Terms of operative part

1. Indemnity

- a) You indemnify and will keep indemnified the Minister and the Crown from and against all actions, suits, claims and demands of whatsoever nature and all damages, costs, charges and expenses in respect of any accident or injury to any person or property which may arise out of:
 - i. the use or occupation of the Premises
 - ii. the construction, installation, repair, replacement or maintenance of works as may be authorised under the Sublicence
 - iii. any failure by You to comply with the terms of the Licence or of the Sublicence.
- b) This indemnity still applies even though You have observed and performed the conditions of the Licence and/or of the Sublicence or that any such accident or injury arises from any act or thing, which You may be authorised or compelled to do under the Licence and/or the Sublicence.
- c) Your obligations under this deed poll continue after the Sublicence expires or is otherwise ended in respect of any act deed matter or thing happening before the expiry or end of the Sublicence.
- d) To the extent that any such claims and demands arise from any negligence or wilful act or omission on the part of the Minister the indemnities under this clause do not apply.

2. Public Risk Insurance

- a) You shall effect and maintain for the Term of the Sublicence a public risk insurance policy in the joint names of You and the Crown in right of the state of New South Wales relating to liability for death or bodily injury or damage to property arising out of Your use and occupation of the Premises and the matters referred to in clause 1 of this deed poll.

3. Domestic insurance policy requirements

- a) The following provisions apply to all policies of insurance taken out by You under this deed poll.
- i. You must if directed by the Minister enter into an insurance policy with an insurer approved by the Minister. Otherwise You must enter into an insurance policy with an insurer carrying on business in Australia.
 - ii. Any public risk policy taken out by You must be for an amount sufficient to cover the risks under the policy.
 - iii. You must provide duplicate or certified copies of all policies if required by the Minister.
 - iv. You will obtain insurance cover for any increased risk and pay all additional premiums (if any) required to be paid if You do anything that may increase the rate of premium on the insurances taken out by You.
- b) The Minister in his own name or as Your attorney in Your name shall be entitled to institute all proceedings against any insurer which issues a policy of insurance required by this deed poll to recover from it any amount for loss damage or injury or other money payable under any indemnity in favour of the Minister. You appoint the Minister as Your attorney for such purposes.
- c) The provisions of clause 1 of this deed poll continue in force after the expiry or other end of the Sublicence.

4. Definitions

The terms in this deed poll mean the following.

- a) **Crown** means Her Majesty Queen Elizabeth II in right of the state of New South Wales, her officers, contractors, employees and agents.
- b) **Minister** means the person described as the Minister in this deed poll and where the context permits includes the Minister's successors, officers, servants, contractors, workmen, employees and agents.
- c) **Premises** means all buildings, structures, facilities, and works situated or to be situated in or on or under the Land any of Your plant and equipment.
- d) **Term** means the term of the Sublicence.
- e) **You** means the occupant who is the sublicensee who enters into an agreement with the jetty owner (the head licensee) to occupy the approved berthing area for a defined term.

Executed as a deed in _____ (insert locality)

Signed, sealed and delivered in the presence of:

Signature of witness _____

Name of witness – please print _____

Address of witness _____

Occupation of witness _____

Name of third party granted the sublicense ('You') _____

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