SCHEDULE 3 – OTHER INTERESTS IN THE NATIVE TITLE AREA

The other interests in the native title area are as follows:

1. **Reserves**

   (a) The rights of State, Local Council, and other organisations or persons who have the care, control and management of any reserves subject to the laws of the State of New South Wales and of the Commonwealth; and

   (b) the rights of persons entitled to access and use reserves for the purposes for which they are reserved, subject to any statutory limitations upon those rights.

2. **Water interests**

   The rights of any holder as at the date of the approved determination of native title of any licences or permissive occupancies granted under the *Water Act 1912* (NSW) and the *Water Management Act 2000* (NSW).

3. **National park interests**

   (a) The rights of the holders from time to time of leases, licences and permits granted or issues under the *National Parks and Wildlife Act 1974* (NSW) and Regulations made under that *Act*.

   (b) The rights of the National Parks and Wildlife Service, and employees or agents of the same under the *National Parks and Wildlife Act 1974* (NSW) and Regulations made under that *Act*.

   (c) The rights of the National Parks and Wildlife Service, and employees or agents of the same, who have the care, control and management of any reserves, subject to the laws of the State of New South Wales and of the Commonwealth.

4. **Occupational permits**

   The rights and interests of any holder as at the date of the approved determination of native title of any forest permit under the *Forestry Act 2012* (NSW) which continues in force under the *National Parks and Wildlife Act 1974* (NSW).

5. **Telstra Corporation Limited and Amplitel Pty Ltd**

The rights and interests of Telstra Corporation Limited (ACN 051 775 556), Amplitel Pty Ltd as trustee of the Towers Business Operating Trust (ABC 75357 171 746) and any of their successors in title:

(a) as the owner(s) or operator(s) of telecommunications facilities within the native title area;

(b) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act* 1975 (Cth), the *Australian Telecommunications Corporation Act 1989* (Cth), the *Telecommunications Act 1991* (Cth), the *Telecommunications Act 1997* (Cth) and the *Government Telecommunications Act 2018* (NSW), including rights:

(i) to inspect land;

(ii) to install, occupy and operate telecommunication facilities; and

(iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of their telecommunications facilities;

(c) for their employees, agents, or contractors to access their telecommunications facilities in and in the vicinity of the native title area in the performance of their duties; and

(d) under any lease, licence, access agreement, permit or easement relating to their telecommunications facilities in the native title area.

6. **Essential Energy**

The rights and interests of Essential Energy (ABN 37 428 185 226) and any of its successors in title as follows:

(a) as the owner(s) or operator(s) of telecommunications facilities within the native title area.

(b) created pursuant to the *Telecommunications Act 1997* (Cth), *Telecommunications (Consumer Protection and Service Standards) Act* 1999 (Cth) and regulations under those Acts including rights:

(i) to inspect land;

(ii) to install, occupy and operate telecommunication facilities; and

(iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities.

(c) for their employees, agents or contractors to access their telecommunications facilities in and in the vicinity of the native title area in the performance of their duties.

(d) under any lease, licence, access agreement, permit or easement relating to their telecommunications facilities or as either or both owner and operator of the facilities for the transmission of electricity and other forms of energy and associated infrastructure in the native title area.

(e) the Applicant acknowledged that, by operation of s 23B of *the Native Title Act 1993* (Cth), native title has been extinguished over:

(i) land upon which, or waters over which, overhead powerlines and associated infrastructure owned and operating by Essential Energy (being a public work as defined in s 253 of *Native Title Act 1993* (Cth)) ("Powerlines") have been constructed ("Powerline Locations"); and

(ii) any adjacent land or waters in accordance with s 251D of the *Native Title Act 1993* (Cth) (Adjoining Land) being:

(A) in relation to land adjoining 33kV Powerlines a total of 30 metres (i.e. 15 metres either side of the Powerlines); and

(B) in relation to land adjoining 19.1kV Powerlines a total of 20 metres (i.e. 10 metres either side of the Powerlines).

(f) despite paragraph (e), but subject to paragraphs (g) and (h) below, Essential Energy has no objection to the native title holders exercising the rights set out in paragraph 7 of this determination over the Powerline Locations or on the Adjoining Land as if native title rights had not been extinguished by the matters acknowledged in paragraph (e).

(g) The native title holders:

(i) must not camp or erect any shelter on the Powerline Locations or the Adjoining Land;

(ii) must comply with any reasonable direction of Essential Energy in respect of the Powerline Locations or Adjoining Land;

(iii) acknowledge that Essential Energy may erect, install, extend, alter, upgrade, replace, maintain and/or remove the Powerlines or construct new powerlines in the same position as the existing Powerlines or on the Adjoining Land; and

(iv) agree that Essential Energy:

(A) may exercise all of its statutory rights in respect of the Powerline Locations and the Adjoining Land without having to comply with the procedural requirements on the *Native Title Act 1993* (Cth);

(B) is not liable to compensate the native title holders when exercising its statutory, or other, rights.

(h) paragraphs (e), (f) and (g) do not apply where native title has been wholly extinguished over the Powerline Locations or Adjoining Land for reasons other than as set out in paragraph (e).

(i) nothing in paragraphs (a) to (h) detracts from Essential Energy's statutory obligations in relation to the preservation of Aboriginal cultural heritage, including but not limited to any such obligations under the *National Parks and Wildlife 1974* (NSW), insofar as there may be any places or objects within the Powerline Locations or Adjoining Land to which such obligations apply.

7. **Electricity and energy supply interests**

(a) The rights and interests of an electricity authority within the meaning of the *Gas and Electricity (Consumer Safety) Act 2017* (NSW) and the *Energy Services Corporations Act 1995* (NSW) in exercising functions, powers or rights in accordance with the laws of the State of New South Wales or of the Commonwealth and as either or both owner and operator of facilities for the transmission of electricity and other forms of energy and associated infrastructure situated on the native title area, including but not limited to rights

under the *Gas and Electricity (Consumer Safety) Act 2017* (NSW) and the *Energy Services Corporations Act 1995* (NSW) to enter the native title area in order to access, use, maintain, repair, replace, upgrade or otherwise deal with existing facilities and infrastructure.

(b) The rights and interests of:

(i) a network operator within the meaning of the *Electricity Supply Act 1995* (NSW); or

(ii) for the purposes of any privatisation transaction, any lessor or lessee of a transmission system or person who owns or is authorised to control or operate a transmission system within the meaning of the *Electricity Supply Act 1995* (NSW);

in exercising functions, powers or rights in accordance with the laws of the State of New South Wales or the Commonwealth as the operator of facilities for the transmission of electricity and other forms of energy and associated infrastructure situated in the native title area, including but not limited to rights under the *Electricity Supply Act 1995* (NSW); to enter the native title area in order to access, use, maintain, repair, replace, upgrade or otherwise deal with existing facilities and infrastructure.

8. **Other interests generally**

(a) Rights and interests, including fee simple interests, leases, licences and permits, granted by the Crown in right of the State of New South Wales or of the Commonwealth pursuant to statute or under regulations made pursuant to such legislation.

(b) Rights and interests held by reason of the force and operation of the laws of the State of New South Wales or of the Commonwealth.

(c) Rights and interests of members of the public arising under common law or statute.

(d) So far as if confirmed pursuant to s 18 of the *Native Title (New South Wales) Act 1994* (Cth) as at the date of the approved determination of native title, any existing public access to and enjoyment of:

(i) waterways;

(ii) the bed and banks or foreshores of waterways;

(iii) travelling stock reserves; and

(iv) areas that were public places at the end of 31 December 1993.

(e) The rights of:

(i) an employee, agent or instrumentality of the State of New South Wales;

(ii) an employee, agent or instrumentality of the Commonwealth;

(iii) an employee, agent or instrumentality of any Local Government Authority

to access the native title area and carry out actions as required in the performance of his, her or its statutory or common law duties.