

Instrument setting out terms of Easements or Profits à 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 Conveyancing Act 1919.

Plan: Plan of subdivision of Lot 452 DP1261916
covered by
Subdivision Certificate No.

(Sheet 1 of 15 Sheets)

**Full name and address
of the owner of the land:** Luxeland Marsden Park Pty. Ltd &
Luxeland House and Land 3 Pty. Ltd
Level 3, 31 Market 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.	Positive covenant	501-555 incl. 559-560 incl.	Blacktown City Council
2.	Easement for access and maintenance 0.9 wide (E17)	502 503 504 505 506 507 508 509 512 513 514 515 516 517 520 521 522 523 524 525 526 527 528 529	501 502 503 504 507 508 509 510 511 512 513 516 517 518 519 520 521 522 523 & 525 523 & 526 527 529 529 530

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(Signatory Luxeland)

Ref: 22131-5C DP1262227

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Authorised Person
Blacktown City Council

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Plan:

Plan of subdivision of Lot 452 DP1261916
covered by
Subdivision Certificate No.

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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:
2. continued	Easement for access and maintenance 0.9 wide (E17)	530 531 532 535 536 537 538 539 540 541 542 543 544 545 546 547 548 550 551 552 553 554 555 560	531 532 533 534 535 536 537 538 & 540 538 542 543 & 544 544 545 546 547 548 549 550 551 552 553 554 554 505 & 506
3.	Restriction on the use of land	501-555 incl. 559 & 560	Blacktown City Council
4.	Restriction on the use of land	501-554 incl.	Blacktown City Council
5.	Positive covenant	561	Blacktown City Council
6.	Easement for onsite stormwater detention variable width	556	Blacktown City Council

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Subdivision Certificate No.

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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:
7.	Easement for overland flowpath variable width	556	Blacktown City Council
8.	Easement for stormwater quality improvement device variable width	556	Blacktown City Council
9.	Restriction on the use of land	501-554 incl.	Blacktown City Council
10.	Easement to drain water 1.5 wide (E18)	534 535 536 537	412-423 incl. DP1261916 534 & 412-423 incl. DP1261916 534, 535 & 412-423 incl. DP1261916 534-536 incl. & 412-423 incl. DP1261916

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Part 1A (Release)

Number of item shown in the intention panel on the plan	Identity of easement or profit à prendre to be released and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1.	Easement for onsite stormwater detention variable width (E4) (DP1261916)	452 DP1261916	Blacktown City Council
2.	Easement for overland flowpath variable width (E5) (WHOLE OF LOT) (DP1261916)	452 DP1261916	Blacktown City Council
3.	Easement for stormwater quality improvement device variable width (E2) (DP1261916)	452 DP1261916	Blacktown City Council
4.	Easement for underground cables 1 wide (E6) (DP1261916)	452 DP1261916	Epsilon Distribution Ministerial Holding Corporation
5.	Easement for underground cables 1 wide (E55) (DP1253165)	356 DP1253165	Epsilon Distribution Ministerial Holding Corporation
6.	Right of carriageway variable width (E60), (E61) & (E62) (DP1253165)	356 DP1253165	Blacktown City Council

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Part 2 (Terms)

1. Terms of Positive covenant numbered one in the abovementioned plan

At the issue of a subdivision certificate, and in perpetuity, all new lots excluding the retained vegetation as shown in Figure 4 of the provided bushfire report prepared by Bruce Horkings of Ecological Australia, Dated September 2017 with Ref 17SYD_7709 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

2. Terms of Easement numbered two in the abovementioned plan

2.1 The owner of the lot benefited may:

- (a) use the easement site to assist in undertaking any works on the lot benefited including construction, repair, painting, landscaping and maintenance;
- (b) enter onto the lot burdened to inspect and survey any structure on the lot benefited; and
- (c) do anything reasonably necessary for those purposes, including:
 - entering the lot burdened;
 - taking anything on to the lot burdened; and
 - carrying out works within the site of this easement.

2.2 The owner of the burdened lot and the owner of the benefited lot acknowledge that it is not the responsibility of Blacktown City Council to determine any dispute in relation to the easement for access and maintenance and any dispute is a civil matter to be resolved between the relevant parties.

2.3 In exercising those powers, the owner of the lot benefited must:

- (a) ensure all work is done properly;
- (b) cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened;
- (c) cause as little damage as is practicable to the lot burdened and any improvements on it;
- (d) restore the lot burdened as nearly as practicable to its former condition; and
- (e) make good any collateral damage.

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Part 2 (Terms)

2.4 The owner of the lot burdened must not:

- (a) allow any building or other structure to be erected or placed on the easement site except an eave or gutter of the main building on the lot burdened or any permanent underground services to the main building;
- (b) carry out any excavation or filling greater than 500mm. Any excavation or filling shall be located and retained so as not to impact on any adjoining building, structure or property.

The grant of this easement is made subject to the right of the owner of the lot burdened to carry out repairs and maintenance or improvements to any landscaping within the site of the easement including installing a security gate across the easement site from the building structure on the lot burdened.

3. Terms of Restriction on the use of land numbered three in the abovementioned plan

The wall of any dwelling on the Lot(s) hereby burdened is not to be located within 900mm of the side boundary unless there is a registered access and maintenance easement on the adjoining property extending the length of the wall.

4. Terms of Restriction on the use of land numbered four in the abovementioned plan

No building or other structure of any kind is permitted on the burdened lots that are not within the approved building envelope plan (BEP) and compliant with the Blacktown City Council Growth Centre Precincts Development Control Plan.

5. Terms of Positive covenant numbered five in the abovementioned plan

- 5.1 In order to mitigate the effects of clearing the Biodiversity Certified land, at least 12 nesting boxes and six artificial hollows (i.e. cavities cut into stags or living trees, following assessment by a suitably qualified Arborist) are to be maintained within the adjacent E2 lands, in cavity and entrance sizing that aims to target a range of hollow-dependent fauna. The installed nesting boxes and artificial hollows must be inspected at least once per year to determine occupation by fauna and must be maintained if found to be degraded or missing.

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Part 2 (Terms)

- 5.2 All land zoned E2 on this lot must be maintained in accordance with the approved Vegetation Management Plan, as an ecologically sensitive area in perpetuity. Activities on this land must not degrade the environment or ecological condition of the site and remain consistent with the intention of the E2 zoning. All noxious and environmental weeds must be continually suppressed and destroyed in perpetuity to ensure that they remain at a density of less than 10% in any 1000 m2 area. Nesting boxes and artificial hollows that are installed must be maintained and replaced as needed to ensure an ongoing availability of 6 hollows per hectare. Failure to do so may result in remedial action by Blacktown City Council at the owner's expense.
- 5.3 Installed nesting boxes are required to be maintained for a period of at least 10 years after installation.
- 5.4 Prior to the 30th June each year, a VMP progress report must be submitted to Council.

6. Terms of Easement numbered six in the abovementioned plan

On-Site Stormwater Detention

The registered proprietor(s) covenant as follows with the Authority benefited in respect to the on-site stormwater detention system (hereinafter referred to as "the system") constructed on the burdened lot(s) that they will not, without the prior and express written consent of the Authority benefited:

- (a) Do any act, matter or thing which would prevent the system from operating in a safe and efficient manner.
- (b) Make or permit or suffer the making of any alterations or additions to the system.
- (c) Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the system.

This restriction shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Conveyancing Act 1919.

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Part 2 (Terms)

For the purposes of this restriction, "the system" means the on-site stormwater detention system constructed on the land as detailed on the plans approved by Blacktown City Council as Construction Certificate No. SY180295SW04 on 30/01/2020, including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage. A copy of this Construction Certificate is held on Council File No. DA-17-01939.

7. Terms of Easement numbered seven in the abovementioned plan

Overland Flowpath

11.1 The registered proprietor(s) covenant as follows with the Authority benefited in respect to the overland flowpath constructed on the burdened lot(s) that they will not, without the prior and express written consent of the Authority benefited:

- (a) Do any act, matter or thing which would prevent the overland flowpath from operating in a safe and efficient manner.
- (b) Make or permit or suffer the making of any alterations or additions to the overland flowpath.
- (c) Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the overland flowpath.

11.2 Any boundary or internal fencing that crosses the overland flowpath is to be open mesh style within 500mm of finished ground level, with the mesh openings designed to provide a minimum 80% clear area. The underside of the fencing shall provide a minimum clear opening of 50mm to ground level.

This restriction shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Conveyancing Act 1919.

For the purposes of this restriction "overland flowpath" means the works constructed on the land (including all access pavements, pipes, drains, kerbs, pits, grates and surfaces designed to convey stormwater through the site) shown on plans approved by Blacktown City Council as Construction Certificate No. SY180295SW04 on 30/01/2020 and contained within the aforementioned Easement. A copy of this Construction Certificate is held on Council File No. DA-17-01939.

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Part 2 (Terms)

8. Terms of Easement numbered eight in the abovementioned plan

Stormwater Quality Improvement Device

The registered proprietor(s) covenant as follows with the Authority benefited in respect to the Stormwater Quality Improvement Device (hereinafter referred to as "the device") constructed and/or installed on the burdened lot(s) that they will not, without the prior and express written consent of the Authority benefited:

- (a) Do any act, matter or thing which would prevent the device from operating in a safe and efficient manner.
- (b) Make or permit or suffer the making of any alterations or additions to the device.
- (c) Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the device.

This restriction shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Conveyancing Act 1919.

For the purpose of this restriction, "the device" means the Bio Detention Basin stormwater quality improvement device constructed and/or installed on the land as detailed on the plans approved by Blacktown City Council as Construction Certificate No. SY180295SW04 on 30/01/2020, including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to treat stormwater, as well as all surfaces graded to direct stormwater to the device. A copy of this Construction Certificate is held on Council File No. DA-17-01939.

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Part 2 (Terms)

9. Terms of Restriction on the Use of Land numbered nine in the abovementioned plan

Acoustic Measures

LAeq Noise levels within the lot burdened must not exceed:

- (a) in any bedroom in the residential accommodation – 35dB(A) at any time between 10pm and 7am.
- (b) anywhere else in the residential accommodation (other than garage, kitchen, bathroom or hallway) – 40dB(A) at any time.

Name of Authority empowered to release, vary or modify terms of positive covenant and restrictions numbered one, three, four, five, six, seven, eight and nine in the abovementioned plan

Blacktown City Council

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Plan:

Plan of subdivision of Lot 452 DP1261916
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Executed on behalf of the Corporation named below
by the authorised persons whose signatures appear
below pursuant to the authority specified.

Corporation: Luxeland Marsden Park Pty Limited ACN 611 763 323

Authority: Section 127 Corporations Act 2001

.....
Signature of authorised person:

.....
Signature of authorised person:

.....
Name of authorised person:
Office held: Director / Secretary

.....
Name of authorised person:
Office held: Director

.....

.....

.....
Address of authorised person:

.....
Address of authorised person:

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(Signatory Luxeland)

Ref: 22131-5C DP1262227

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Authorised Person
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Executed on behalf of the Corporation named below
by the authorised persons whose signatures appear
below pursuant to the authority specified.

Corporation: Luxeland House and Land 3 Pty Limited ACN 616 570 819

Authority: Section 127 Corporations Act 2001

.....
Signature of authorised person:

.....
Name of authorised person:
Office held: Sole Director

.....
Address of authorised person:

.....
(Signatory Luxeland)

Ref: 22131-5C DP1262227

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Authorised Person
Blacktown City Council

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Blacktown City Council by its authorised delegate
pursuant to s.377 Local Govt. Act, 1993

.....
Signature of delegate

.....
Name of delegate

I certify that I am an eligible witness and
that the delegate signed in my presence.

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

.....
(Signatory Luxeland)

Ref: 22131-5C DP1262227

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HORIZON REAL ESTATE FUND I L.P.

being the Mortgagee under Mortgage number/s.....

hereby Consents to this Plan/Instrument

.....
Signature of Director

.....
Name of Director

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

.....
(Signatory Luxeland)

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Plan of subdivision of Lot 452 DP1261916
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I certify that the attorney signed this
instrument in my presence

Signed by the attorney named below who signed this
instrument pursuant to the power of attorney specified for
**Endeavour Energy Network Asset Partnership (ABN
30 586 412 717)** on behalf of **Epsilon Distribution
Ministerial Holding Corporation (ABN 59 253 130
878)** pursuant to Section 36 of the Electricity Network
Assets (Authorised Transactions) Act 2015 (NSW)

.....
Signature of Witness

.....
Signature of Attorney

.....
Name of Witness

Name and position of Attorney:
Manager Property and Fleet

Power of Attorney: Book N°

.....
Address of Witness:
c/- Endeavour Energy
51 Huntingwood Drive
HUNTINGWOOD NSW 2148

Signing on behalf of:
Endeavour Energy Network Asset Partnership
ABN 30 586 412 717

Endeavour Energy reference:

.....
Date of signature:

.....
(Signatory Luxeland)

.....
Authorised Person
Blacktown City Council