

**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 of the Conveyancing Act 1919.**

LENGTHS ARE IN METRES

Sheet 1 of 14 Sheets

**Plan: DP STAGE 1**

**Plan of Subdivision of Lots A and B in DP 391036  
Covered by Subdivision Certificate No.  
Dated**

Full name and address of the owner  
of the land:

**Lots A and B in DP 391036**

**PART 1 (Creation)**

<b>Number of item shown in the intention panel on the plan</b>	<b>Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan</b>	<b>Burdened lots(s) or parcel(s):</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities:</b>
1.	Easement for Access, Maintenance and Construction 0.9 wide (A)	102 103 104 106 107 109 112 114 115 116 123 124 125 128 131	101 102 103 105 108 110 113 115 116 117 122 123 124 127 127

**Plan: DP STAGE 1**

**Plan of Subdivision of Lots A and B in DP 391036**  
**Covered by Subdivision Certificate No.**  
**Dated**

**PART 1 (Creation)**  
**(Continued)**

<b>Number of item shown in the intention panel on the plan</b>	<b>Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan</b>	<b>Burdened lots(s) or parcel(s):</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities:</b>
2.	Easement for Drainage of Water 1.5 wide (B)	107 108 109  119 118 117 116 115 114 113	108 – 110 Inclusive 109 and 110 110  112 – 118 Inclusive 112 – 117 Inclusive 112 – 116 Inclusive 112 – 115 Inclusive 112 – 114 Inclusive 112 and 113 112
3.	Easement for Drainage of Water 2 wide (C)	129	112 – 119 Inclusive
4.	Public Access Easement 1 wide (D)	119 120	Liverpool City Council
5.	Easement for Padmount Substation 2.75 wide (P)	111	Epsilon Distribution Ministerial Holding Corporation
6.	Restriction on the Use of Land	Part 111 designated (R) Part 112 designated (R)	Epsilon Distribution Ministerial Holding Corporation

**Plan: DP STAGE 1**

**Plan of Subdivision of Lots A and B in DP 391036**  
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**Dated**

**PART 1 (Creation)**  
**(Continued)**

<b>Number of item shown in the intention panel on the plan</b>	<b>Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan</b>	<b>Burdened lots(s) or parcel(s):</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities:</b>
7.	Restriction on the Use of Land	Part 111 designated (S) Part 112 designated (S)	Epsilon Distribution Ministerial Holding Corporation
8.	Restriction on the Use of Land (On site Detention Basin)	129 130	Liverpool City Council
9.	Positive Covenant (On site Detention Basin)	129 130	Liverpool City Council
10.	Restriction on the Use of Land (Driveway Crossings)	107 111 128	Liverpool City Council
11.	Restriction on the Use of Land (Developer Restrictions)	Each Lot except 131	Every other Lot except 131

**Plan: DP STAGE 1****Plan of Subdivision of Lots A and B in DP 391036  
Covered by Subdivision Certificate No.  
Dated****PART 2 (Terms)****1. Terms of Easement for Access, Maintenance and Construction numbered 1 in the plan:**

- 1.1 In this Easement for Access, Maintenance and Construction:  
**'Easement Site'** means that area of the lot burdened shown on the plan as affected by 'Easement for Access, Maintenance and Construction 0.9 wide'.
- 1.2 The grant of this easement is made subject to the existence of, and the right of the owner of the lot burdened to construct guttering from the structure on the lot burdened, that overhangs the site of the easement.
- 1.3 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 at the entrance to the site of the easement from the front of the building structure on the lot burdened.
- 1.4 Subject to Clause 1.5, the owner of the lot benefited may:
- a) Install and maintain in the wall adjacent to the Easement Site one or more cavity weephole drainage points and drain water from the weephole, but only within the easement site.
  - b) Install and maintain on the wall adjacent to the Easement Site guttering that overhangs the Easement Site, and drain water but only within the guttering.
  - c) With prior reasonable notice given to the owner of the lot burdened, use the Easement Site for the purpose of carrying out necessary work (including construction, maintenance and repair) on:
    - (i) The lot benefited; and
    - (ii) Any structure belonging to the owner of the lot benefited, which cannot otherwise be reasonably carried out without accessing the Lot burdened; and
  - d) Do anything reasonably necessary for that purpose, including:
    - (i) Entering onto the lot burdened;
    - (ii) Taking anything onto the lot burdened; and
    - (iii) Carrying out necessary works.
- 1.5 The rights under this Easement for Access, Maintenance and Construction are:
- a) Limited to the extent necessary to permit the owner of the lot benefited to construct, maintain and repair any part of:
    - (i) The lot benefited; and
    - (ii) Any structure belonging to the owner of the lot benefited.
- 1.6 In exercising the rights under this clause, the owner of the lot benefited must:
- a) Ensure all work on the lot benefited is done properly and carried out as quickly as practicable;

**Plan: DP STAGE 1****Plan of Subdivision of Lots A and B in DP 391036  
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Dated****PART 2 (Terms)  
(Continued)**

- 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 improvement on it;
- d) Restore the lot burdened as nearly as is practicable to its former condition; and
- e) Make good any collateral damage.

The owner of the lot burdened and the owner of the lot benefited acknowledge that it is not the responsibility of Liverpool City Council to determine any dispute in relation to the Easement for Access, Maintenance and Construction and any dispute is a civil matter to be resolved with the relevant parties.

**Name of Authority required to consent to release, vary or modify the Easement for Access, Maintenance and Construction numbered 1 in the plan: Liverpool City Council.**

**2. Terms of Easement for Drainage of Water numbered 2 in the plan:**

The Terms of the Easement for Drainage of Water are as prescribed in Part 8 of Schedule 8 of the Conveyancing Act 1919.

**Name of Authority required to consent to release, vary or modify the Easement for Drainage of Water numbered 2 in the plan: Liverpool City Council.**

**3. Terms of Easement for Drainage of Water numbered 3 in the plan:**

The Terms of the Easement for Drainage of Water are as prescribed in Part 8 of Schedule 8 of the Conveyancing Act 1919.

**Name of Authority required to consent to release, vary or modify the Easement for Drainage of Water numbered 3 in the plan: Liverpool City Council.**

**Plan: DP STAGE 1****Plan of Subdivision of Lots A and B in DP 391036  
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Dated****PART 2 (Terms)  
(Continued)****4. Terms of Easement for Public Access numbered 4 in the plan:**

Terms of right of access as per Part 11 Schedule 4A of the Conveyancing Act 1919 as amended together with the following addition:

- a) The easement is a temporary extension of the adjoining public road and will function as a public road in accordance with the definition of “public road” included in the Roads Act 1993 for the purposes of providing access across the easement site.
- b) The easement site is made accessible to the public.
- c) The easement is a temporary right which must be removed upon the extension of the adjoining public road to which it relates.

**Name of Authority required to consent to release, vary or modify the Easement for Public Access numbered 4 in the plan: Liverpool City Council.**

**5. Terms of Easement for Padmount Substation numbered 5 in the plan:**

The terms set out in Memorandum No AK104621 registered at Land & Property Information NSW are incorporated into this document, subject to changing “Endeavour Energy” to “Epsilon Distribution Ministerial Holding Corporation”.

**Name of Authority required to consent to release, vary or modify the Easement for Padmount Substation numbered five (5) in the plan: Epsilon Distribution Ministerial Holding Corporation. The cost and expense of any such release, variation or modification shall be borne by the persons or corporation requesting the same in all respects.**

**6. Terms of Restriction on the Use of Land numbered 6 in the plan:****1.0 Definitions**

- 1.1 **120/120/120 fire rating** and **60/60/60 fire rating** means the fire resistance level of a building expressed as a grading period in minutes for structural adequacy / integrity failure / insulation failure calculated in accordance with Australian Standard 1530.
- 1.2 **building** means a substantial structure with a roof and walls and includes any projections from the external walls.
- 1.3 **erect** includes construct, install, build and maintain.

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Dated****PART 2 (Terms)  
(Continued)**

- 1.4 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.
- 2.0 No building shall be erected or permitted to remain within the restriction site unless:
- 2.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating, and
- 2.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating, and
- 2.3 the owner provides the authority benefited with an engineer's certificate to this effect.
- 3.0 The fire ratings mentioned in clause 2 must be achieved without the use of fire fighting systems such as automatic sprinklers.
- 4.0 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System
- 4.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation's distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation's distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation's distribution system from Epsilon Distribution Ministerial Holding Corporation.
- 4.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

**7. Terms of Restriction on the Use of Land numbered 7 in the plan:**

- 1.0 Definitions
- 1.1 **erect** includes construct, install, build and maintain.
- 1.2 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

**Plan: DP STAGE 1****Plan of Subdivision of Lots A and B in DP 391036  
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Dated****PART 2 (Terms)  
(Continued)**

2.0 No swimming pool or spa shall be erected or permitted to remain within the restriction site.

3.0 Lessee of Epsilon Distribution Ministerial Holding Corporation Distribution System

3.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation distribution system from Epsilon Distribution Ministerial Holding Corporation.

3.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

**Name of Authority empowered to release, vary or modify the Restrictions numbered six (6) and seven (7) in the plan: Epsilon Distribution Ministerial Holding Corporation. The cost and expense of any such release, variation or modification shall be borne by the persons or corporation requesting the same in all respects.**

**8. Terms of Restriction on the Use of Land numbered 8 in the plan:**

**On-Site Detention Basin**

The Registered Proprietors(s) covenant as follows with the Authority benefited in respect to the System 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.

No fencing may be erected on the road frontage of the lot(s) burdened unless in accordance with the engineering plans for the System.



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Any fencing erected on the lot burdened must not be removed, damaged, destroyed or permitted to fall into disrepair.

No fencing may be erected on the lot(s) burdened unless

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 System" means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the lot burdened as required by Development Consent No. 430/2018 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage.

Liverpool City Council will have no objection to the release of this restriction upon the relevant district downstream basins or major trunk drainage system being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary stormwater quality control devices and outlet works within the Lot hereby burdened.

**Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 8 in the plan: Liverpool City Council.**

**9. Terms of Positive Covenant numbered 9 in the plan:****On-Site Detention Basin**

9.1 The Registered Proprietors(s) covenant as follows with the Authority benefited in respect to System, that they will:

- a) Keep the System clean and free from silt, rubbish and debris.
- b) Maintain and repair, at the sole expense of the registered proprietor(s), that part of the System contained within the registered proprietor's own lot, so that it functions in a safe and efficient manner, in accordance with the manufacturer's recommended requirements.
- c) For the purpose of ensuring observance of this covenant, permit Liverpool City Council or its authorised agents (hereinafter referred to as "the Council") from time to time and upon giving reasonable notice (but at any time without notice in the case of an emergency) to enter the land and inspect the condition of the System and the state of construction, maintenance or repair of the System, for compliance with the requirements of this covenant.
- d) Notify Council in writing after each programmed maintenance inspection.

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Dated****PART 2 (Terms)  
(Continued)**

- e) Comply with the terms of any written notice issued by the Council to attend to any matters and carry out such work within the time stated in the notice, to ensure the proper and efficient performance of the System and to that extent Section 88F(2)(a) of the Conveyancing Act 1919 (hereinafter referred to as "the Act") is hereby agreed to be amended accordingly.
- f) Maintain any fencing on the lot burdened.

9.2 Pursuant to Section 88F(3) of the Act the Council shall have the following additional powers pursuant to this covenant:

- a) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council may enter the Lot burdened with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the aforementioned notice issued by Council.
- b) The Council may recover from the registered proprietor in a court of competent jurisdiction:
  - I. Any expense reasonably incurred by Council in exercising its powers in clause 9.2 a) above. Such expense shall include reasonable wages for employees engaged in effecting, supervising and administering the said work, together with costs, reasonable estimated by Council, for the use of materials, machinery, tools and equipment used in conjunction with the said work.
  - II. Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs, charges and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

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

For the purpose of this restriction, "the System" means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the lot burdened as required by Development Consent No. 430/2018 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage.

**Plan: DP STAGE 1****Plan of Subdivision of Lots A and B in DP 391036  
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Dated****PART 2 (Terms)  
(Continued)**

Liverpool City Council will have no objection to the release of this restriction upon the relevant district downstream basins or major trunk drainage system being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary stormwater quality control devices and outlet works within the Lot hereby burdened.

**Name of Authority empowered to release, vary or modify the Positive Covenant numbered 9 in the plan: Liverpool City Council.**

**10. Terms of Restriction on the Use of Land numbered 10 in the plan:****Driveway Crossings**

No driveway may be constructed where the kerb and gutter driveway crossing is within 6m of a kerb and gutter tangent point.

**Name of Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 10 in the plan: Liverpool City Council.**

**11. Terms of Restriction on the Use of Land numbered 11 in the plan:****Developer Restrictions**

No fence shall be erected on a burdened lot to divide it from any adjoining land owned by XGP Development Pty Limited without the consent of XGP Development Pty Limited. Such consent shall not be withheld if such fence is erected without expense to XGP Development Pty Limited.

**Name of Person or Authority empowered to release, vary or modify the Restriction on the Use of Land numbered 11 in the plan: XGP Development Pty Limited for such period as it is the registered proprietor of land in the Plan and thereafter the owners of the lot benefited.**

**Plan: DP STAGE 1****Plan of Subdivision of Lots A and B in DP 391036  
Covered by Subdivision Certificate No.  
Dated****Seals & Signatures****Execution by Epsilon Distribution Ministerial Holding Corporation  
(ABN 59 253 130 878)**

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:  
Simon Lawton  
Strategic Property ManagerAddress of witness:  
c/- Endeavour Energy  
51 Huntingwood Drive  
Huntingwood NSW 2148Signing on behalf of:  
Endeavour Energy Network Asset  
Partnership  
ABN 30 586 412 717

Power of attorney: Book 4768

No 870

EE reference: URS22899

Date: \_\_\_\_\_

**Plan: DP STAGE 1**

**Plan of Subdivision of Lots A and B in DP 391036  
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Dated**

**Seals & Signatures**

**Execution by Liverpool City Council**

Signed by .....  
As an authorised delegate of Liverpool City Council  
pursuant to S.377 of the Local Government Act 1993  
and I hereby state that I have no notice of  
revocation of such delegation.

.....  
Signature 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

**Plan: DP STAGE 1**

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Dated**

**Seals & Signatures**

**Execution by**