

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 26 Sheets

Plan:

Plan of Subdivision of Lots 43A, 44A &
44B D.P. 8979 & Lot 101 DP 602786
covered by Council's Subdivision
Certificate No.
Dated:

<u>Full Name and address of Proprietor of land:</u>	
43A/8979 & 44B/ 8979	NLI BYRON HOLDING PTY LTD (ACN 606 961 004) Suite 702, 5 Rider Boulevard Rhodes, NSW 2138
44A/8979 & 101/602786	LEPPINGTON GARDEN PTY LTD (ACN 620 504 387) Unit 1201, 179 Elizabeth Street Sydney, NSW, 2000

Part 1 (Creation)

	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.	Easement to Drain Water 1.5 Wide	1002 1003 1004 1005 1006 1007 1008 1009	1001 1001, 1002 1001, 1002, 1003 1001, 1002, 1003, 1004 1001 to 1005 inclusive 1001 to 1006 inclusive 1001 to 1007 inclusive 1001 to 1008 inclusive

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.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Lengths are in Metres

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Plan:

Plan of Subdivision of Lots 43A, 44A &
44B D.P. 8979 & Lot 101 DP 602786
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Part 1 (cont)

	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	Easement to Drain Water 1.5 Wide	1020 1042 1043 1044 1045 1046 1047 1050 1051 1052 1060, 1061 1072 1075 1095 1097, 1098 1099 1100 1101 1102 1103	1019 1043 to 1048 inclusive 1044 to 1048 inclusive 1045, 1046, 1047, 1048 1046, 1047, 1048 1047, 1048 1048 1049 1049, 1050 1049, 1050, 1051 1042 to 1048 inclusive 1073 1074 1096 1099 to 1107 inclusive 1100 to 1107 inclusive 1101 to 1107 inclusive 1102 to 1107 inclusive 1103 to 1107 inclusive 1104, 1105, 1106, 1107

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Part 1 (cont)

	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	Easement to Drain Water 1.5 Wide	1104 1105 1106 1108 1116 1117 1118 1119 1122 1123 1124 1125 1126	1105, 1106, 1107 1106, 1107 1107 1109 1117, 1118, 1119, 1120 1118, 1119, 1120 1119, 1120 1120 1121 1121, 1122 1121, 1122, 1123 1121, 1122, 1123, 1124 1121 to 1125 inclusive
2.	Easement for Access & Maintenance 0.9 Wide (B)	1002 1003 1004 1005 1006 1007 1008 1009	1001 1002 1003 1004 1005 1006 1007 1008

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Part 1 (cont)

	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.	Easement for Access & Maintenance 0.9 Wide (B)	1010 1011 1012 1013 1014 1015 1016 1017 1024 1025 1026 1051 1052 1062,1063 1064 1065 1066 1067 1068 1069 1069 1070	1011 1012 1013 1014 1015 1016 1017 1018 1023 1024 1025 1050 1051 1064 1065 1066 1067 1068 1069 1070 1071

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Part 1 (cont)

	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.	Easement for Access & Maintenance 0.9 Wide (B)	1075 1077 1078 1079 1080 1081 1082 1083 1084 1085 1098 1099 1100 1101 1102 1103 1104 1105 1106 1108	1074 1076 1077 1078 1079 1080 1081 1082 1085 1062 1097 1100 1101 1102 1103 1104 1105 1106 1107 1109

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Part 1 (cont)

	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:-
3.	Easement for Access & Maintenance 0.9 Wide (B1)	1084, 1085 1097, 1098	1083 1099
4.	Easement to Drain Water Variable Width	1127, 1128	Camden Council
5.	Easement for Padmount Substation 2.75 Wide	1010, 1087	Epsilon Distribution Ministerial Holding Corporation
6.	Restriction On Use of Land	Part 1009, Part 1010, Part 1087 w Part 1088 Designated 'D'	Epsilon Distribution Ministerial Holding Corporation
7.	Restriction On Use of Land	Part 1009, Part 1010, Part 1087 w Part 1088 Designated 'E'	Epsilon Distribution Ministerial Holding Corporation

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Part 1 (cont)

	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:-
8.	Restriction On Use of Land	1001 to 1010 Inclusive, 1018, 1039, 1040, 1041, 1060, 1061, 1086, 1087, 1118 to 1126 inclusive	Camden Council
9.	Restriction On Use of Land	1001 to 1010 Inclusive, 1018, 1039, 1040, 1041, 1060, 1061, 1086, 1087, 1118 to 1126 inclusive	Camden Council
10.	Restriction On Use of Land	1001 to 1010 Inclusive, 1018, 1039, 1040, 1041, 1060, 1061, 1086, 1087, 1118 to 1126 inclusive	Camden Council

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Part 1 (cont)

	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:-
11.	Restriction On Use of Land	1001 to 1009 Inclusive, 1120 to 1126 inclusive	Camden Council
12.	Restriction On Use of Land	1009, 1010, 1020	Camden Council
13.	Restriction On Use of Land	Each lot 1001 to 1126 inclusive,	Camden Council
14.	Restriction On Use of Land	Each lot 1001 to 1126 inclusive,	Camden Council
15.	Restriction On Use of Land	1001, 1002, 1003, 1004, 1015, 1016 1017, 1018, 1023 1024, 1025, 1062, 1064 to 1071 Inclusive, 1076 to 1083 inclusive, 1084, 1097, 1099 to 1107 inclusive, 1109	Camden Council

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Part 1 (cont)

	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:-
16.	Restriction On Use of Land	Part 1127 & Part 1128 designated 'G'	Camden Council
17.	Positive Covenant	Part 1127 & Part 1128 designated 'G'	Camden Council
18.	Restriction On Use of Land	Part 1127 & Part 1128 designated 'G'	Camden Council
19.	Positive Covenant	Part 1127 & Part 1128 designated 'G'	Camden Council
20.	Restriction On Use of Land	Each lot 1001 to 1126 inclusive	Every Other lot 1001 to 1126 inclusive

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Part 2

Terms of easement, profit à prendre, positive easement or positive covenant numbered 1 & 4 in the plan.

An Easement to Drain Water in the Terms as set out in part 3 of Schedule 8 of the Conveyancing Act 1919 amended, is created.

The Authority whose consent is required to release, vary or modify the terms of the easement numbered 1 & 4 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 2 & 3 in the plan.

The proprietor of the lot benefited and persons authorised by him may:

- (a) enter upon the burdened lot but only within the site of this easement.
- (b) do anything reasonably necessary for the purpose of constructing, renewing, replacing, painting, repairing and maintaining the dwelling adjacent to this easement.
- (c) remain on the site of this easement for any reasonable time for the said purposes.

In exercising those powers the proprietor of the lot benefited must:

- (a) ensure that all work is done properly and carried out as quickly as practicable; and
- (b) cause as little inconvenience to the proprietor or occupier of the burdened lot; and
- (c) cause as little damage as possible to the burdened lot and any improvement on it and
- (d) restore as nearly as is practicable the burdened lot to its former condition; and
- (e) make good any collateral damage; and

The proprietor of the burdened lot shall not place any obstructions within the site of the easement nor erect any building or other structure of any kind on or over the site of the easement except for any wall and/or slab, eave and/or gutter and/or roof structure attached to any dwelling or garage that has been granted development approval by Camden Council, and

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

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Part 2 (cont)

The Authority whose consent is required to release, vary or modify the terms of the easement numbered 2 & 3 in the plan is Camden Council.

Terms of easement, profit à prendre, restriction or positive covenant numbered 5 in the plan.

The terms set out in Memorandum No AK104621 registered at NSW Land Registry Services are incorporated into this document subject to replacing the words 'Endeavour Energy' with 'Epsilon Distribution Ministerial Holding Corporation'.

Terms of easement, profit à prendre, restriction or positive covenant 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.
- 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 denoted 'D'.

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 prescribed authority 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.

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Part 2 (cont)

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.

Terms of easement, profit à prendre, restriction or positive covenant 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 denoted 'E'

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.

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Part 2 (cont)

- 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 terms of the easement and restrictions numbered 5, 6 & 7 in the plan is Epsilon Distribution Ministerial Holding Corporation.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 8 in the plan.

No further development of the lot(s) hereby burdened is to take place unless in accordance with recommendations consistent with "Section 4.5.1 Building Layout" contained within the "Traffic Noise Assessment of Proposed Subdivision: 35-45 Byron Road & 36-46 Rickard Road Leppington, Prepared by Renzo Tonin, Ref no TK042-01F01, report (r3) Dated 18 December 2018"

The side boundary setbacks can be a minimum of 0.9m to a maximum of 1.5m. For corner lots the setback to the secondary boundary should not be greater than 3m.

For all dwellings the front setbacks must not be greater than the "minimum" setbacks stipulated in the current Development Control Plan

A copy of this report is held at Council Ref DA/2017/1556/3

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 8 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 9 in the plan.

No dwelling house shall be constructed on the lot(s) hereby burdened unless constructed consistent with the construction requirements and window and door treatments in "Section 4.5 – Noise Control Treatment Recommendations" and "Table 4.5- Indicative Window Requirements for Habitable Rooms" contained within the "Traffic Noise Assessment of Proposed Subdivision: 35-45 Byron Road & 36-46 Rickard Road Leppington, Prepared by Renzo Tonin, Ref no TK042-01F01, report (r3) Dated 18 December 2018"

A copy of this report is held at Council Ref DA 2017/1556/3

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Part 2 (cont)

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 9 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 10 in the plan.

No dwelling house shall be constructed on the lot(s) hereby burdened unless constructed consistent with the construction requirements and window and door treatments in "Section 4.5.4 –Mechanical Ventilation" contained within the "Traffic Noise Assessment of Proposed Subdivision: 35-45 Byron Road & 36-46 Rickard Road Leppington, Prepared by Renzo Tonin, Ref no TK042-01F01, report (r3) Dated 18 December 2018"

A copy of this report is held at Council Ref DA 2017/1556/3

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 10 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 11 in the plan.

No fence shall be erected on the lot(s) hereby burdened unless constructed as a 1.8m high acoustic rated fence between residential dwellings as illustrated in "Figure 5 – Between Dwellings Fence Locations" contained within the report "Traffic Noise Assessment of Proposed Subdivision: 35-45 Byron Road & 36-46 Rickard Road Leppington, Prepared by Renzo Tonin, Ref no TK042-01F01, report (r3) Dated 18 December 2018"

A copy of this report is held at Council Ref DA 2017/1556/3

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 11 in the plan is Camden Council.

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Part 2 (cont)

Terms of easement, profit à prendre, positive easement or positive covenant numbered 12 in the plan.

No fence shall be erected on the lot(s) hereby burdened unless constructed as a 1.8m high acoustic rated fence between residential dwellings as illustrated in "Figure 4 – Boundary Fence Locations" contained within the report "Traffic Noise Assessment of Proposed Subdivision: 35-45 Byron Road & 36-46 Rickard Road Leppington, Prepared by Renzo Tonin, Ref no TK042-01F01, report (r3) Dated 18 December 2018"

A copy of this report is held at Council Ref DA 2017/1556/3

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 12 in the plan is Camden Council.

Terms of easement, profit à prendre, restriction or positive covenant numbered 13 in the plan.

No further construction works that include earthworks, imported fill, landscaping, roads, buildings and associated infrastructure is to take place on the burdened lot unless in accordance with the management strategies as contained within the Salinity Management Plans within the report titled "Report Salinity Management Plan: Proposed Residential Subdivision 35 & 45 Byron Road and 36 and 46 Rickard Road Leppington, Prepared by Network Geotechnics, Ref No G09/2606-B, Dated 12 January 2018".

A copy of this report is held at Council Ref DA/ 2017/692

Name of Authority empowered to release vary or modify the term of the restriction numbered 13 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 14 in the plan.

No building shall be erected on the lot hereby burdened being a filled lot as identified in Fill Plans prepared by Craig & Rhodes, drawing no. 026-17G Mxx[xx] dated xx/xx/xxxx unless constructed on pier and beam footings to safe and uniform strata or alternatively on footings or slab designed and certified by a Chartered Professional Engineer to the requirements and satisfaction of Camden Council.

A copy of this report is held at Council Ref DA 2017/1556/3

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 14 in the plan is Camden Council.

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Terms of easement, profit à prendre, positive easement or positive covenant numbered 15 in the plan.

No building shall be erected on the lot hereby burdened unless in accordance with controls set out in the Building Envelope Plan approved by Notice of Determination No. DA/2017/1556/3 issued by Camden Council on 1 May 2019.

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 15 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 16 in the plan.

The Registered Proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary On-site Detention Storage Area & Outlet Works (hereinafter referred to as 'the system') constructed within the lots hereby burdened that they will not, without the prior and express written consent of the Authority benefited:

1. Do any act, matter or thing which would prevent the system from operating in a safe and efficient manner.
2. Make or permit or suffer the making of any alterations or additions to the system.
3. 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 of 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 to be constructed and/or installed on the land as required by Development Consent No DA/2017/1556/3 and as detailed on the plans approved by Camden Council as Construction Certificate No. xxxxx on xx/xx/20xx 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 CCE-xx/20xx

Camden Council will have no objection to the release of this restriction upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary quality control devices and outlet works within the lots hereby burdened.

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 16 in the plan is Camden Council.

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Terms of easement, profit à prendre, positive easement or positive covenant numbered 17 in the plan.

1. The registered proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary On-Site Detention Storage Area & Outlet Works (hereinafter referred to as 'the system') constructed and/or installed on the lots hereby burdened, 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 Maintenance Schedule, a copy of which is held on Council File CCE-xx/20xx. A copy of this Schedule is available to all owners and occupiers of the burdened lot(s).
- (c) For the purpose of ensuring observance of this covenant, permit Camden Council or its authorised agents (hereinafter referred to as 'the Council') from time to time and upon giving reasonable notice (but at any time and 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.
- (e) Comply with the terms of any written notice issued by the Council to attend to any matter 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.

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 land with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the said notice referred to in 1(e) above.

(b) The Council may recover from the registered proprietor in a court of competent jurisdiction:

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- I. Any expense reasonably incurred by it in exercising its powers in sub-paragraph 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.
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 land as required by Development Consent No. DA/2017/1556/3 and as detailed on the plans approved by Camden City Council as approved Construction Certificate No. CCE-XX/20XX on XX/XX/20XX 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. A copy of this Construction Certificate is held on Council File CCE- XX/20XX.

Camden Council will have no objection to the release of this positive covenant upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works within the lots hereby burdened.

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 17 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 18 in the plan.

The Registered Proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary Stormwater Pre-treatment System (hereinafter referred to as 'the system') constructed within the lots hereby burdened that they will not, without the prior and express written consent of the Authority benefited:

1. Do any act, matter or thing which would prevent the system from operating in a safe and efficient manner.

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Plan:

Plan of Subdivision of Lots 43A, 44A &
44B D.P. 8979 & Lot 101 DP 602786
covered by Council's Subdivision
Certificate No.
Dated:

Part 2 (cont)

2. Make or permit or suffer the making of any alterations or additions to the system.
3. 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 of 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 Stormwater Pre-treatment System to be constructed and/or installed on the land as required by Development Consent No DA/2017/1556/3 and as detailed on the plans approved by Camden Council as Construction Certificate No. xxxxx on xx/xx/20xx 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 CCE-xx/20xx

Camden Council will have no objection to the release of this restriction upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary quality control devices and outlet works within the lots hereby burdened.

The Authority whose consent is required to release, vary or modify the terms of the restriction numbered 18 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 19 in the plan.

1. The registered proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary Stormwater Pre-treatment System (hereinafter referred to as 'the system') constructed and/or installed on the lots hereby burdened, 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 Maintenance Schedule, a copy of which is held on Council File CCE-xx/20xx. A copy of this Schedule is available to all owners and occupiers of the burdened lot(s).

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Plan:

Plan of Subdivision of Lots 43A, 44A &
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Dated:

Part 2 (cont)

- (c) For the purpose of ensuring observance of this covenant, permit Camden Council or its authorised agents (hereinafter referred to as 'the Council') from time to time and upon giving reasonable notice (but at any time and 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.
- (e) Comply with the terms of any written notice issued by the Council to attend to any matter 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.
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 land with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the said notice referred to in 1(e) above.
- (b) The Council may recover from the registered proprietor in a court of competent jurisdiction:
- I. Any expense reasonably incurred by it in exercising its powers in sub-paragraph 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.
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.

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

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Dated:

Part 2 (cont)

For the purpose of this restriction, 'the system' means the Temporary Stormwater Pre-treatment System constructed and/or installed on the land as required by Development Consent No. DA/2017/1556/3 and as detailed on the plans approved by Camden Council as approved Construction Certificate No. CCE-XX/20XX on XX/XX/20XX 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. A copy of this Construction Certificate is held on Council File CCE- XX/20XX.

Camden Council will have no objection to the release of this positive covenant upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works within the lots hereby burdened.

The Authority whose consent is required to release, vary or modify the terms of the positive covenant numbered 19 in the plan is Camden Council.

Terms of easement, profit à prendre, positive easement or positive covenant numbered 20 in the plan.

No garage outbuildings or other structures shall be erected or be permitted to remain on any lot burdened unless erected concurrently with or subsequently to the erection of a residential building.

No existing dwelling house or building or part thereof shall be partly or wholly moved to or placed and re-erected upon or re-constructed on or be permitted to remain on any lot burdened.

No building or any part thereof shall be erected or be permitted to remain on any lot burdened unless constructed entirely of new materials

No building or buildings shall be erected or be permitted to remain erected on any lot burdened other than with external walls of brick and/or brick veneer and/or stone and/or concrete and/or glass and/or timber and/or hardiplank or similar product. No building or buildings shall be erected or permitted to remain erected on any lot burdened having a roof other than clay tiles, cement tiles, slate or non reflective surface corrugated iron. All roofing materials shall be black or shades of grey only.

No vehicle of any make or kind having a tare weight exceeding 5 tonnes shall be garaged, housed, parked, serviced or mechanical repairs carried out thereon or allowed to remain on any lot burdened except where such vehicles are being used for the delivery of goods or purposes of construction of any improvement on any lot burdened.

APPROVED BY CAMDEN COUNCIL

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General Manager / Authorised Officer
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Lengths are in Metres

Sheet 22 of 26 Sheets

Plan:

Plan of Subdivision of Lots 43A, 44A &
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Part 2 (cont)

No fence shall be erected or permitted to remain on any lot hereby burdened unless the fencing is of a timber lapped and/or lapped and capped construction or colorbond fence provided that colorbond fence can only use colours shale grey, dune, basalt & woodland grey.

No fence shall be erected on each lot burdened to divide it from any adjoining land owned by the abovenamed proprietors without the consent of the abovenamed proprietors but such consent shall not be withheld if such fence is erected without expense to the abovenamed proprietors provided that this restriction shall remain in force only during such time as the abovenamed proprietors are the Registered Proprietors of any land and shall bind the adjoining owner of such land successive owners and assigns of each lot burdened.

No advertising hoarding signs or matter shall be displayed or erected on any lot burdened (other than a sign advertising that the said lot is for sale) without the prior written consent of NLI Byron Pty Ltd and Leppington Garden Pty Ltd or its successors in title or assigns.

No driveway shall be constructed on any lot burdened unless its surface is comprised of faux or stamped concrete or pavers or as approved by NLI Byron Holding Pty Ltd and Leppington Garden Pty Ltd or its assigns AND unless driveway construction is undertaken prior to practical completion of the main building

No dwelling shall be erected or permitted to remain on any lot burdened unless the area between the building line and the front boundary of the lot burdened is turfed.

No release variation or modification of these restrictions shall be made unless the cost and expense in all respects is borne by the person or persons requesting same.

Name of Authority empowered to release vary or modify the term of the restriction numbered 20 in the plan is NLI Byron Holding Pty Ltd and Leppington Garden Pty Ltd for five years from the date of registration of the plan and after that time the lots benefited.

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Lengths are in Metres

Sheet 23 of 26 Sheets

Plan:

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Certificate No.
Dated:

Part 2 (cont)

EXECUTED by **NLI BYRON PTY LTD**

(ACN 606 961 004)

In accordance with section 127 (1) of the
Corporations Act:

)
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)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director

.....
Name of Director/Secretary

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Lengths are in Metres

Sheet 24 of 26 Sheets

Plan:

Plan of Subdivision of Lots 43A, 44A &
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Dated:

Part 2 (cont)

EXECUTED by **LEPPINTON GARDEN PTY LTD**

(ACN 620 504 387)

In accordance with section 127 (1) of the
Corporations Act:

)
)
)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director

.....
Name of Director/Secretary

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Lengths are in Metres

Sheet 25 of 26 Sheets

Plan:

Plan of Subdivision of Lots 43A, 44A &
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Certificate No.
Dated:

Part 2 (cont)

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 Manager

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

Power of Attorney: Book.....
No.....

Endeavour Energy reference:

Date of signature:

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020

Lengths are in Metres

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Part 2 (cont)

Camden Council by its authorised delegate pursuant to s.377 of Local Government Act
1993 No 30 _____

(name of delegate)

.....
Signature of Delegate

.....
Name of Delegate (print)

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

.....
Signature of Witness

.....
Name of Witness (print)

.....
Address of Witness

APPROVED BY CAMDEN COUNCIL

.....
General Manager / Authorised Officer
CR Ref: 026-17-ST1 v05 Date: 15/06/2020