

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE
INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE
OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO
SECTION 88B OF THE CONVEYANCING ACT, 1919.**

(Lengths are in metres)

(Sheet 1 of 13 sheets)

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562
& Easements, Restriction & Positive Covenant
over Lot 168 in DP 1240562
covered by Council's Certificate No.
Dated:

**Full name and address of
Proprietor of the land:**

Crownland Kelly St No.3 Pty Ltd
(ACN 620 430 622)
Suite 301, Level 3
95 Pitt Street
SYDNEY NSW 2000

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of Easement, 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 for Access & Maintenance 0.9 Wide. (A)	302	301
		303	302
		304	303
		305	304
		306	305
		307	306
		308	307
		309	308
		310	309
		311	310
		312	311
		313	312
		314	313
		315	314
		316	315
		317	316
		318	317
		319	318
		320	319
		321	320
322	323		
323	324		
324	325		
325	326		

Approved by Council
Authorised Officer

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

1 continued	Easement for Access & Maintenance 0.9 Wide. (A)	328 329 330 331 334 335 336 337 340 341 342 343 346 347 168 in DP 1240562	329 330 331 332 335 336 337 338 341 342 343 344 347 348 321
2	Easement for Drainage of Water 1.5 Wide. (B)	310 322 323 324 325 327 328 329 330 331 339 340 341 342 343 345 346 347	339 - 348 inclusive 323 - 332 inclusive 324, 325 & 326 325 & 326 326 328 - 332 inclusive 329 - 332 inclusive 330, 331 & 332 331 & 332 332 340 - 348 inclusive 341 - 348 inclusive 342, 343 & 344 343 & 344 344 346, 347 & 348 347 & 348 348
3	Easement for Drainage of Water 1.5 Wide. (B1)	319 328 333 334 335 336 337	328 & 333 - 339 inclusive 333 - 339 inclusive 334 - 339 inclusive 335 - 339 inclusive 336, 337 & 338 337 & 338 338

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4	Right of Access 2.5 Wide & Variable. (C)	327 328 333 334 339 340 345 346	328 327 334 333 340 339 346 345
5	Restriction on the Use of Land.	301, 302, 304, 305, 313 - 320 inclusive, 323 - 326 inclusive, 328 - 338 inclusive, 343, 344, 346, 347 & 348	Liverpool City Council
6	Restriction on the Use of Land.	Every Lot	Every other Lot
7	Easement for Drainage of Water. (Affects Entire Lot) (D)	168 in DP 1240562	Liverpool City Council
8	Restriction on the Use of Land.	168 in DP 1240562	Liverpool City Council
9	Positive Covenant.	168 in DP 1240562	Liverpool City Council
10	Easement for Padmount Substation 2.75 Wide. (E)	318	Epsilon Distribution Ministerial Holding Corporation
11	Restriction on the Use of Land.	Pt.317 & Pt.318 designated (F)	Epsilon Distribution Ministerial Holding Corporation
12	Restriction on the Use of Land.	Pt.317 & Pt.318 designated (G)	Epsilon Distribution Ministerial Holding Corporation
13	Easement for Underground Cables 1, 2.5 & Variable Width. (H)	320 & 327	Epsilon Distribution Ministerial Holding Corporation

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PART 2 (Terms)

Terms of Easement numbered 1 in the abovementioned plan

- 1.1 The owner of the lot benefited by:
- (a) With prior reasonable notice given to the owner or occupier of a lot burdened, use the easement site for the purpose of carrying out necessary work (including construction, maintenance and repair) on:
 - (i) The lot benefited;
 - (ii) Any structure constructed or to be constructed by the owner of the lot benefited, which cannot otherwise reasonably be carried out;
 - (b) Do anything reasonably necessary for that purpose including:
 - (i) Entering into the lot burdened;
 - (ii) Taking anything onto the lot burdened; and
 - (iii) Carrying out the necessary works.
- 1.2 In exercising the rights under this clause 1, the owner of the lot benefited must:
- (a) Ensure that all work on the lot benefited is done properly and carried out as quickly as practicable;
 - (b) Cause as little inconvenience to the owner and any occupier of the lot burdened;
 - (c) Cause as little damage as 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.
- 1.3 The owner of the lot benefited indemnifies the owner of the lot burdened against any damage, injury, costs, expenses, liability, claim, suits or other actions arising from the exercise of the rights under this easement.
- 1.4 The owner of the lot burdened must not place any obstructions within the easement site or erect any building or other structure of any kind on or over the easement site except for any dwelling or garage or wall and/or slab, eave and/or gutter, meter boxes and/or roof structure attached to any dwelling or garage that has been granted development approval by Liverpool City Council, and
- 1.5 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 any dispute is a civil matter to be resolved with the relevant parties.

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

Terms of Easement numbered 2 & 3 in the abovementioned plan

An Easement for Drainage of Water as set out in Schedule 8, Part 8 of the Conveyancing Act 1919, as amended.

Terms of Easement numbered 4 in the abovementioned plan

A Right of Access as set out in Schedule 8, Part 14 of the Conveyancing Act 1919, as amended.

Terms of Restriction numbered 5 in the abovementioned plan

No building shall be erected on the lot hereby burdened being a filled lot 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.

Terms of Restriction numbered 6 in the abovementioned plan

1. 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.
2. 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.
3. No building or any part thereof shall be erected or be permitted to remain on any lot burdened unless constructed entirely of new materials.
4. 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.
5. 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.
6. 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 construction provided such colorbond fence is of either surf mist, shale grey, dune, basalt or woodland grey colour only. No colorbond fence shall be erected on any street frontage or within the front building setback line.

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

7. 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.
8. 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 the abovenamed proprietors or its successors in title or assigns.
9. No driveway shall be constructed on any lot burdened unless its surface is comprised of faux or stamped or coloured concrete or pavers or as approved by the abovenamed proprietors or its assigns AND unless driveway construction is undertaken prior to practical completion of the main building.
10. 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.

Terms of Easement numbered 7 in the abovementioned plan

An Easement for Drainage of Water as set out in Schedule 4A, Part 7 of the Conveyancing Act 1919, as amended.

Terms of Restriction numbered 8 in the abovementioned plan

The registered proprietor shall not make or permit or suffer the making of any alterations to the on-site stormwater detention system and the stormwater pre-treatment system, which is constructed/installed on the lot(s) burdened without the prior consent in writing of Liverpool City Council. The expression "on-site stormwater detention system" and "stormwater pre-treatment system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain and treat stormwater, as well as all surfaces graded to direct stormwater to the temporary storage and system.

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

Terms of Positive Covenant numbered 9 in the abovementioned plan

The expression "on-site stormwater detention system" and "stormwater pre-treatment system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain and treat stormwater, as well as all surfaces graded to direct stormwater to the temporary storage and system. Any on-site stormwater detention and pre-treatment system constructed/installed on the lots burdened is hereafter referred to as "the system".

1. The registered proprietor of the lots hereby burdened will in respect of the system:
 - a) keep the system clean and free from silt, rubbish and debris
 - b) maintain and repair at the sole expense of the registered proprietor the whole of the system so that it functions in a safe and efficient manner
 - c) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for compliance with the requirements of this covenant
 - d) comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice
 - e) refer to the maintenance schedule and the Council approved stormwater plans as an appendix to items (a) and (b) mentioned above.

2. Pursuant to Section 88F(3) of the Conveyancing Act 1919-64 the Council shall have the following additional powers:
 - 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 or its authorised agents may enter the land with all the necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1.(d) 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 under subparagraph (a) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (a) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, tools and equipment in conjunction with the said work.
 - II. legal costs on an indemnity basis for the issue of the said notices and recovery of the said costs and expenses together with the costs 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.

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

Terms of Easement numbered 10 in the abovementioned plan

The terms set out in Memorandum No. AK104621 are incorporated into this document, subject to changing "Endeavour Energy" to "Epsilon Distribution Ministerial Holding Corporation".

Terms of Restriction numbered 11 in the abovementioned 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.

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.

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

Terms of Restriction numbered 12 in the abovementioned 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.

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.

Terms of Easement numbered 13 in the abovementioned plan

The terms set out in Memorandum No AK104616 are incorporated into this document, subject to changing "Endeavour Energy" to "Epsilon Distribution Ministerial Holding Corporation".

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

Name of Authority whose consent is required to release, vary or modify

Easements numbered: 1, 2, 3 & 7

Restrictions numbered: 5 & 8

Positive Covenant numbered: 9

in the abovementioned plan is Liverpool City Council.

Name of Person or Authority whose consent is required to release, vary or modify

Easement numbered: 4

in the abovementioned plan is The Registered Proprietor of the benefited lots

Name of Person or Authority whose consent is required to release, vary or modify

Restriction numbered: 6

in the abovementioned plan is the abovenamed proprietors for such period as they are the registered proprietor of any lot in this plan of subdivision or any lot in a plan of re-subdivision of any part of this plan and thereafter the person or persons shall be the registered proprietors of the lots having the benefit. All costs associated with any such release, variation or modification shall be borne by the applicant.

Name of Authority whose consent is required to release, vary or modify

Easements numbered: 10 & 13

Restrictions numbered: 11 & 12

in the abovementioned plan is Epsilon Distribution Ministerial Holding Corporation.

(Lengths are in metres)

(Sheet 11 of 13 sheets)

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562
& Easements, Restriction & Positive Covenant
over Lot 168 in DP 1240562
covered by Council's Certificate No.
Dated:

SIGNATURES

Consent of Owner:

Consent of Mortgagee:

DRAFT

Approved by Council
Authorised Officer

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562 & Easements, Restriction & Positive Covenant over Lot 168 in DP 1240562 covered by Council's Certificate No. Dated:

SIGNATURES

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:

Address of witness:
c/- Endeavour Energy
51 Huntingwood Drive
Huntingwood NSW 2148

Power of attorney:
Book No

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

Endeavour Energy reference:

Date of signature:

PLAN:

Plan of Subdivision of Lot 167 in DP 1240562
& Easements, Restriction & Positive Covenant
over Lot 168 in DP 1240562
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Dated:

SIGNATURES

Liverpool City Council by its authorised delegate pursuant to s.377 Local Government 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

