

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Sheet 1 of 12 sheets

Plan:

Plan of subdivision of Lots 21 and 22 in DP 776219 and Lots 35 and 36 in DP 28459 covered by Subdivision Certificate No.

Full name and address of Proprietor of land:

HEATH ROAD 43 PTY LIMITED
(ACN 636 855 797)
PO Box R562
ROYAL EXCHANGE
NSW 1225

PART 1

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 padmount substation 2.75 wide (A)	200	Epsilon Distribution Ministerial Holding Corporation
2	Restriction on the use of land (B)	200	Epsilon Distribution Ministerial Holding Corporation
3	Restriction on the use of land (C)	200	Epsilon Distribution Ministerial Holding Corporation
4	Easement to drain water 1.5 wide (D)	202 203 204 210 216 219 220 221 224 225 226 227 230 231 232 233 234	201 201 and 202 201, 202 and 203 224 to 228 inclusive 219 to 222 inclusive 220 to 222 inclusive 221 and 222 222 225 to 228 inclusive 226 to 228 inclusive 227 and 228 228 229 229, 230 and 232 to 235 inclusive 233 to 235 inclusive 235 and 235 235

Authorised Person
Camden Council

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Sheet 2 of 12 sheets

Plan:

Plan of subdivision of Lots 21 and 22 in DP 776219 and Lots 35 and 36 in DP 28459 covered by Subdivision Certificate No.

PART 1

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.
4	Easement to drain water 1.5 wide (D)	236 237 238 239 240 243 244 245 251 256 258 259 260 261 262 265 266 269	237 to 241 inclusive 238 to 241 inclusive 239 to 241 inclusive 240 and 241 241 242 242 and 243 242 to 244 inclusive 236 to 241 inclusive 229 to 235 inclusive 259 to 263 inclusive 260 to 263 inclusive 261 to 263 inclusive 262 and 263 263 264 264 and 265 264, 265 and 266
5	Easement to drain water 4 wide and variable (E)	217 218	Camden Council
6	Easement to drain water 2.5 wide (F)	216 217	217 and 219 to 222 inclusive 216 and 219 to 222 inclusive
7	Easement for services 2.5 wide (F)	216 217	217 216
8	Right of Access 2.5 wide (F)	216 217	217 216
9	Restriction on the use of land	201 to 272 inclusive	Every other lot being 201 to 272 inclusive

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Sheet 3 of 12 sheets

Plan:

Plan of subdivision of Lots 21 and 22 in DP 776219 and Lots 35 and 36 in DP 28459 covered by Subdivision Certificate No.

PART 1

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.
10	Restriction on the use of land	201 to 272 inclusive	Camden Council
11	Right of Carriageway variable width (G) (whole lot)	229 and 257	Camden Council

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Sheet 4 of 12 sheets

Plan:

Plan of subdivision of Lots 21 and 22 in DP 776219 and Lots 35 and 36 in DP 28459 covered by Subdivision Certificate No.

PART 2

1. Terms of Easement firstly referred to in abovementioned plan.

The terms as set out in Memorandum No. AK104621 registered at NSW Land Registry Services are incorporated into this document, subject to changing "Endeavour Energy" to "Epsilon Distribution Ministerial Holding Corporation".

2. Terms of Restriction secondly referred to in 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 and denoted (B).

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.

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Camden Council

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Sheet 5 of 12 sheets

Plan:

Plan of subdivision of Lots 21 and 22 in DP 776219 and Lots 35 and 36 in DP 28459 covered by Subdivision Certificate No.

PART 2

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.

3. Terms of Restriction thirdly referred to in 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 denoted (C).
- 2.0 No swimming pool or spa shall be erected or permitted to remain within the restriction site.

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Sheet 6 of 12 sheets

Plan:

Plan of subdivision of Lots 21 and 22 in DP 776219 and Lots 35 and 36 in DP 28459 covered by Subdivision Certificate No.

PART 2

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'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.
- 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.

4. Terms of Easement fourthly and sixthly referred to in abovementioned plan.

Easement to drain water as set out in Part 3 of Schedule 8 of the Conveyancing Act, 1919 (as amended).

The Authority having the right to release, vary or modify is Camden Council.

5. Terms of Easement fifthly referred to in abovementioned plan.

Easement to drain water as set out in Part 3 of Schedule 4A in the Conveyancing Act, 1919 (as amended).

The Authority having the right to release, vary or modify is Camden Council.

6. Terms of Easement seventhly referred to in abovementioned plan.

Easement for services as set out in Part 11 of Schedule 8 in the Conveyancing Act, 1919 (as amended).

The Authority having the right to release, vary or modify is Camden Council.

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Sheet 7 of 12 sheets

Plan:

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PART 2

7. Terms of Easement eighthly referred to in abovementioned plan.

Right of access as set out in Part 14 of Schedule 8 of the Conveyancing Act, 1919 (as amended).

The Authority having the right to release, vary or modify is Camden Council.

8. Terms of Restriction ninthly referred to in 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 neutral colours or shades of grey.
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 fence provided that Colorbond fence can only use colours, shale grey, dune, basalt or woodland grey.

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Sheet 8 of 12 sheets

Plan:

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PART 2

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 Crownland Leppington Pty Limited or its successors in title or assigns.
9. No driveway shall be constructed on any lot burdened unless its surface is comprised of faux, stamped or coloured concrete or pavers or as approved by Crownland Leppington No. 5 Pty Limited 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.
11. 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 the same.

The person(s) whose consent is required to release vary or modify the terms of Restriction numbered 9 in the plan is **Heath Road 43 Pty Ltd of Suite 502, Level 5, 95 Pitt Street, Sydney NSW 2000** 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.**

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Sheet 9 of 12 sheets

Plan:

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PART 2

9. Terms of Restriction tenthly referred to in abovementioned plan.

No dual occupancy or secondary dwelling or multi dwelling housing or boarding house or any other form of dwelling, other than a single dwelling, shall be constructed or permitted to remain on the burdened lot that would result in a dwelling density greater than one.

- i. Terms used in this recital have the same meaning as defined in the Standard Instrument – Principal Local Environmental Plan 2006
- ii. Density is calculated as the number of dwellings on a burdened lot divided by one

Name of Authority having the power to release, vary or modify the terms of the Restriction numbered 10 in the plan is Camden Council.

10. Terms of easement eleventhly referred to in abovementioned plan.

Right of carriageway as set out in Part 1 of Schedule 4A of the Conveyancing Act 1919, as amended.

This right of carriageway may be released when a road is dedicated adjacent to Lots 229 and 257 removing the need for temporary turning heads.

The Authority having the right to release, vary or modify is Camden Council.

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Sheet 10 of 12 sheets

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PART 2

Camden Council by its authorised delegate pursuant to Section 378 Local Government Act, 1993.

Signed by:

Name:

Position:

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

Signed by:

Name of Witness:

Address of Witness:

Authorised Person
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Sheet 11 of 12 sheets

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PART 2

Executed by HEATH ROAD 43 PTY LTD (ACN 636 855 797) in accordance with Section 127 of the Corporations Act 2001

.....

Director

.....

Director/Secretary

DRAFT

Authorised Person
Camden Council

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Sheet 12 of 12 sheets

Plan:

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PART 2

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:
Helen Smith
Manager Property & Fleet

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

Power of attorney:
Book 4734 No 883

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

Endeavour Energy reference:

Date of signature:

Authorised Person
Camden Council