

Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B Conveyancing Act 1919.

Plan: Plan of Subdivision of Lot 60 DP1211770 covered by Subdivision Certificate No.

Full name and address of the owner of the land: BD NSW (MR) PROJECT O007 Pty. Ltd.
Level 7
100 Edward Street
BRISBANE 4000

(Sheet 1 of 16 Sheets)

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lots(s), road(s), bodies or Prescribed Authorities:
1	Easement to drain water 1.2 wide (E1)	769 768 767 766 758 759 760 761 762 763 764 765 721 720 724 744 745 746	770 769, 770 768-770 incl 767-770 incl 757 757, 758 757-759 incl 757-760 incl 757-761 incl 757-762 incl 757-763 incl 757-764 incl 722 721, 722 723 743 743, 744 743, 744, 745
2.	Easement to drain water 1.5 wide (E11)	788	area 'A' within 790
3.	Easement to drain water 1.5 wide (E13)	789	area 'B' within 790
4.	Easement to drain water 1.5 wide (E14)	794	689-692 incl

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Authorised person BD NSW (MR) PROJECT

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Authorised Person
Hawkesbury Council

Plan:

Plan of Subdivision of Lot 60 DP1211770
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BD NSW (MR) PROJECT O007 Pty. Ltd.
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(Sheet 2 of 16 Sheets)

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lots(s), road(s), bodies or Prescribed Authorities:
5.	Easement to drain water 1.5 wide (E15)	794	793
6.	Easement to drain water 1.5 wide (E16)	794	795
7.	Easement to drain water 3 wide (E17)	796	Hawkesbury Council
8.	Easement to drain water 3 wide (E18)	789, 794, 796	Hawkesbury Council
9.	Easement to drain water 3 wide (E19)	796	Hawkesbury Council
10.	Easement for Padmount Substation 2.75 wide (E4)	770, 787, 735,	Epsilon Distribution Ministerial Holding Corporation
11.	Easement for Padmount Substation 4.25 wide (E20)	790	Epsilon Distribution Ministerial Holding Corporation
12.	Restriction on the Use of Land (R1)	Pts. 770, 771, 757, 787, 734, 735, 790 Designated (R1)	Epsilon Distribution Ministerial Holding Corporation
13.	Restriction on the Use of Land (R2)	Pts. 770, 771, 757, 787, 734, 735, 790 Designated (R2)	Epsilon Distribution Ministerial Holding Corporation

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Hawkesbury Council

Ref: B16800-11C

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BD NSW (MR) PROJECT O007 Pty. Ltd.
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Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lots(s), road(s), bodies or Prescribed Authorities:
14.	Easement underground cables variable width (E5)	790	Epsilon Distribution Ministerial Holding Corporation
15.	Easement underground cables 15 wide (E6)	791	Epsilon Distribution Ministerial Holding Corporation
16.	Positive Covenant (P3)	Pt. 792	Hawkesbury Council
17.	Restriction on the use of land 2 wide (R3)	Pt. 789 & Pt. 794	688-692 incl
18.	Restriction on the Use of Land	each lot except 788-796 incl	every other lot except 788-796 incl
19.	Positive Covenant	684-787 incl	Hawkesbury Council
20.	Restriction on the Use of Land	684-787 incl	Hawkesbury Council
21.	Restriction on the Use of Land	each lot except 788-796 incl	every other lot except 788-796 incl
22.	Restriction on the Use of Land	688-692 incl	Hawkesbury Council
23.	Positive Covenant	688-692 incl	Hawkesbury Council

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Part 2 (Terms)

1. **Terms of Easement for Padmount Substation (E4) 2.75 wide and 4.25 wide (E20) numbered ten and eleven in the abovementioned plan**

The terms set out in Memorandum N^o AK104621 registered at Land & Property Information NSW are incorporated into this document subject to replacing the words 'Endeavour Energy' with 'Epsilon Distribution Ministerial Holding Corporation'.

2. **Terms of Restriction on the Use of Land (R1) numbered twelve in the abovementioned plan**

2.1 Definitions:

2.1.1 **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;

2.1.2 **building** means a substantial structure with a roof and walls and includes any projections from the external walls;

2.1.3 **erect** includes construct, install, build and maintain;

2.1.4 **restriction site** means that part of the lot burdened affected by the restriction on the use of land shown as (R1) on the plan.

2.2 No building shall be erected or permitted to remain within the restriction site unless:

2.2.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating; and

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Part 2 (Terms)

- 2.2.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating; and
- 2.2.3 the owner provides the authority benefited with an engineer's certificate to this effect.
- 2.3 The fire ratings mentioned in clause 2.2 must be achieved without the use of fire fighting systems such as automatic sprinklers.
- 2.4 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System
- 2.4.1 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.
- 2.4.2 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 on the Use of Land (R2) numbered thirteen in the abovementioned plan**
- 3.1 Definitions:
- 3.1.1 **erect** includes construct, install, build and maintain.

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- 3.1.2 **restriction site** means that part of the lot burdened affected by the restriction on the use of land shown as (R2) on the plan.
- 3.2 No swimming pool or spa shall be erected or permitted to remain within the restriction site.
- 3.3 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System
- 3.3.1 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.
- 3.3.2. 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 for underground cables variable width (E5) and 15 wide (E6) numbered fourteen and fifteen in the abovementioned plan**

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

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Part 2 (Terms)

5. Terms of Positive Covenant (P3) numbered sixteen in the abovementioned plan

The owner of the Lot burdened must maintain the area designated (P3) on the abovementioned plan as an interim asset protection zone as managed grassland as identified on attachment 'A' of the bush fire report prepared by McKinlay Morgan & Associates Pty. Ltd. No.87883/DA10YR dated June 2014. The asset protection zone shall be managed as an inner protection area as outlined within Planning for Bush Fire Protection 2006 and the Rural Fire Service's document "Standards for Asset Protection Zones".

Council will raise no objection to the release of this Covenant when the land the subject of this Covenant is developed as residential land.

6. Restriction on the use of land 2 wide (R3) numbered seventeen in the abovementioned plan

The owner of the Lot burdened must not alter the existing surface levels of the land within the easement site (R3) in a manner that would adversely affect the adjoining retaining wall.

7. Terms of Restriction on the Use of Land numbered eighteen in the abovementioned plan.

7.1 No building shall be erected or permitted to remain erected on each lot burdened without the prior written consent of the Developer to the plans and specifications for the building which consent shall not be withheld if:

7.1.1 The plans and specifications have attached to it a report from a registered surveyor, architect, building designer or licensed builder certifying that on completion in accordance with the plans and specifications, the proposed building will comply with the

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Part 2 (Terms)

Hawkesbury Development Control Plan ("DCP"), and the Redbank Design and Landscape Guidelines; and

7.1.2 the Developer in its absolute discretion considers that the plans substantially comply with the DCP and the Redbank Design and Landscape Guidelines.

7.2 Alterations

No alterations or additions may be made to any lot or any change to any building erected on any lot altering its colour, the materials used in its construction or the façade which does not comply with the requirements of the DCP and the Design and Landscape

Guidelines. Nothing in this restriction shall prevent any work in the nature of repair or refurbishing that is consistent with the original construction.

7.3 Display Homes

No building shall be erected on a burdened lot or permitted to remain on a burdened lot which is used or intended to be used as a Display Home, other than by the Developer, or with the approval of the Developer (which approval will be given or withheld in the Developer's absolute discretion.)

7.4 Definitions:

7.4.1 "**BD NSW**" means BD NSW (MR) Project O007 Pty Ltd (ACN 123 888 773).

7.4.2 "**Developer**" means BD NSW and its successors in title to the Estate to which BD NSW assigns the benefit of this restrictive covenant, provided the successor in title has notified the other proprietors in the Estate that it is the "Developer" for the purposes of this Restriction of Use.

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7.4.3 "**Display Home**" means a structure, usually a house, which is used to market or sell houses of the same or a similar type and which is intended to show what living space and features of houses are available to be built in the Estate or elsewhere.

7.4.4 "**Estate**" means all of the land comprised in the estate known as "Redbank" being the land more particularly described in Certificate of Title 74/1187236, as it may be subdivided from time to time.

7.4.5 "**Redbank Design and Landscape Guidelines**" shall mean the Redbank Design and Landscape Guidelines issued under the name of 'Redbank Communities'.

7.5 This Restriction on Use was required as a condition of Hawkesbury Council development consent Development Application number DA0216/16

8. Terms of Positive Covenant numbered nineteen in the abovementioned plan.

Any dwelling constructed on the lot(s) hereby burdened must have a minimum of 50% of the roof area drained to a rainwater tank(s). The rainwater tanks are to have a minimum capacity of 3000 litres and be plumbed for at least one domestic internal use (toilet flushing and/or laundry use). Any rainwater tank overflows, roof and hardstand areas of future development on the lot(s) burdened must be connected to a suitable on site storm water disposal/infiltration system.

9. Terms of Positive Covenant numbered twenty in the abovementioned plan.

The owner of the lot burdened must manage the entire lot burdened as Inner Protection Areas (IPA) as outlined within Section 4.1.3 and Appendix 5 of "Planning for Bush Fire Protection 2006" and the NSW Rural Fire Service's document "Standards for Asset Protection Zones", as it may be varied, added to or replaced from time to time.

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10. Terms of Restriction on the Use of Land numbered twenty one in the abovementioned plan.

The owner of the lot burdened may not subdivide the lot burdened despite a smaller lot size being permitted by the site specific provisions of the Development Control Plan.

11. Terms of Restriction on the Use of Land numbered twenty two in the abovementioned plan.

The owner of the lot(s) burdened must not remove or permit to be removed the fence existing on the boundary designated 'x'-y-'z' at the time of registration of the abovementioned plan, where that lot shares a common boundary with a residual lot. The owner must maintain this fence to the same standard that existed at the time of registration of the abovementioned plan described as a plain, natural timber post and rail/wire fence.

12. Terms of Positive Covenant numbered twenty three in the abovementioned plan

The owners of the lots burdened covenant with Hawkesbury Council (**Council**) to maintain and repair the retaining wall on the burdened lots in accordance with the following terms and conditions:

- (a) each owner of a lot burdened will, at their cost, maintain and repair and keep the retaining wall maintained and repaired, so that the retaining wall functions in a safe and effective manner as determined by Council;
- (b) for the purpose of ensuring compliance with this covenant, Council may by its servants or agents at any reasonable time and upon giving an owner of a burdened lot not less than 2 days' notice (but at any time without notice in the case of an emergency), enter the land and view the state of construction, maintenance or repair of the retaining wall on the burdened lot and any works on the burdened lot;
- (c) by written notice Council may require each owner of a burdened lot to attend to any matter or carry out any work within such time as Council may require to

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Part 2 (Terms)

ensure the proper and efficient performance of the retaining wall on that owner's burdened lot;

- (d) Section 88F(2)(a) of the Act will apply to any works performed under clause 8(c);
- (e) pursuant to section 88F(3) of the Act, Council has the following additional powers:
 - (i) in the event that an owner of a burdened lot fails to comply with the terms of any written notice issued by Council as set out in (c) above, Council or its authorised agents may enter that burdened lot with all necessary equipment and carry out any work which Council in its discretion considers reasonable;
 - (ii) Council may recover from each owner of a burdened lot:
 - 1. any expense reasonably incurred by Council in exercising its powers under clause 8(e)(i) in respect of that owner's lot. For the purposes of this clause 8(e)(ii)(1) such expense will include, without limitation:
 - i. reasonable wages for Council's employees engaged in effecting, supervising and administering the works ; and
 - ii. any costs reasonably incurred by Council in connection with the works;
 - 2. legal costs on an indemnity basis for issuing any notice and for recovering any cost or expense (including any cost associated with registering a covenant charge on the relevant burdened lot pursuant to Section 88F of the Act or providing any certificate required pursuant to

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Part 2 (Terms)

Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act).

- (f) This covenant shall bind all persons who claim under the owners of the lots burdened as stipulated in Section 88E(5) of the Act.
- (g) For the purposes of this positive covenant "**the Act**" means the *Conveyancing Act 1919 (NSW)* (as amended from time to time).

Name of Authority empowered to release, vary or modify Easements numbered one - nine inclusive, sixteen, nineteen, twenty, twenty two and twenty three in the abovementioned plan

Hawkesbury Council.

Name of Authority empowered to release, vary or modify Easements and Restrictions numbered ten to fifteen in the abovementioned plan

Epsilon Distribution Ministerial Holding Corporation.

Name of person whose consent is required to release, vary or modify Restriction numbered eighteen in the abovementioned plan

The Developer until the later of:

- (a) the date being [five years] from the date of registration of the plan to which this instrument relates; and
- (b) the date on which the Developer ceases to own a lot within the Estate to which this instrument relates, and thereafter Hawkesbury Council.

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Hawkesbury Council

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(Sheet 13 of 16 Sheets)

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 and Fleet

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

Power of Attorney: Book 4734 N^o 883

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

Endeavour Energy reference:
.....

Date of signature:

.....
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Signed on behalf of BD NSW (MR) PROJECT O007 Pty. Ltd. ACN 123 888 773
By its duly authorised Attorney being duly authorised in this behalf (who by their execution warrant that their appointment has not been revoked) in the presence of:-

.....
Signature of witness

.....
Signature of Attorney

.....
Name of witness

.....
Name of Attorney

.....
Address of witness

Power of Attorney dated:
Book No.

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Authorised person BD NSW (MR) PROJECT

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Hawkesbury Council

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National Australia Bank Limited ACN 004 044 937

Executed by its Level Attorney

Under Power of Attorney No

this Day of

.....
(By executing this instrument the Attorney states that the Attorney has received no notice of the revocation of the Power of Attorney)

.....
(Signature of Witness)

.....
(Name of Witness)

.....
(Address of Witness)

.....
Authorised person BD NSW (MR) PROJECT

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Authorised Person
Hawkesbury Council

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

.....
Signature of delegate

.....
Name of delegate

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

.....
Signature of Witness

.....
Name of Witness

.....
Address of Witness

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Authorised person BD NSW (MR) PROJECT

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Authorised Person
Hawkesbury Council