

ATTACHMENT 2.2 – SECTION 88B INSTRUMENT

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

(Sheet 1 of 23 Sheets)

Plan:
Plan of subdivision of Lot 3096 in DP1318906 covered by
Council Subdivision Certificate No. to be inserted

Full Name and Address
of the owner of the land:
Birling Estate Pty Ltd ACN 657 548 073
975 The Northern Road, Bringelly 2556

DRAFT 21.1.26

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 lot(s), road(s), bodies or Prescribed Authorities
1	Easement to Drain Water Variable Width (A)	4105	Camden Council
2	Right of Access 4 Wide (B)	4028	4029
3	Easement for Services 4 Wide (B)	4028	4029
4	Easement for Support & Maintenance 0.9 Wide (C) (Zero Lot Line)	4003 4007 4008 4009 4010 4011 4012 4013 4014 4015 4018 4019 4020 4021 4022 4023 4024 4025 4026 4035 4036 4037 4038 4040	4002 4008 4009 4010 4011 4012 4013 4014 4015 4016 4017 4018 4019 4020 4021 4022 4023 4024 4025 4036 4037 4038 4039 4041

Plan:

Plan of subdivision of Lot 3096 in DP1318906 covered by
Council Subdivision Certificate No.

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 lot(s), road(s), bodies or Prescribed Authorities
		4041	4042
		4042	4043
		4043	4044
		4044	4045
		4045	4046
		4046	4047
		4047	4048
		4048	4049
		4049	4050
		4050	4051
		4051	4052
		4052	4053
		4053	4054
		4056	4055
		4057	4056
		4058	4057
		4059	4058
		4060	4059
		4061	4060
		4062	4061
		4063	4062
		4064	4063
		4065	4064
		4066	4067
		4067	4068
		4068	4069
		4069	4070
		4070	4071
		4071	4072
		4072	4073
		4073	4074
		4074	4075
		4075	4076
		4076	4077
		4079	4078
		4080	4079
		4081	4080
		4082	4081

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Council Authorised Person

Plan:

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Council Subdivision Certificate No.

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 lot(s), road(s), bodies or Prescribed Authorities
		4083 4084 4085 4086 4087 4088 4089 4090 4091 4092 4093 4095 4096 4097 4098 4099 4100 4101	4082 4083 4084 4085 4086 4087 4088 4089 4090 4093 4094 4096 4097 4098 4099 4100 4101 4102
5	Easement to Drain Water 4 Wide (D)	4028	4029
6	Easement for Support & Maintenance 0.9 Wide (E) (Ret. Wall)	4017 4018 4019 4020 4021 4022 4023 4024 4025 4026 4027 4028 4041 4042 4043	4054 4053 4052 4051, 4052 4049, 4050 4048, 4049 4047, 4048 4046, 4047 4045, 4046 4044, 4045 4043, 4044 4041, 4042, 4043 4028 4028 4027, 4028

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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 lot(s), road(s), bodies or Prescribed Authorities
		4044	4026, 4027
		4045	4025, 4026
		4046	4024, 4025
		4047	4023, 4024
		4048	4022, 4023
		4049	4021, 4022
		4050	4021
		4051	4020
		4052	4019, 4020
		4053	4018
		4054	4017
		4078	4101, 4102
		4079	4100, 4101
		4080	4099, 4100
		4081	4098, 4099
		4082	4097, 4098
		4083	4096, 4097
		4084	4095, 4096
		4085	4095, 4103
		4086	4103
		4087	4103
		4088	4103
		4089	4103
		4090	4094, 4103
		4091	4092, 4093, 4094,
		4093	4091
		4094	4090, 4091
		4095	4084, 4085
		4096	4083, 4084
		4097	4082, 4083
		4098	4081, 4082
		4099	4080, 4081
		4100	4079, 4080

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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 lot(s), road(s), bodies or Prescribed Authorities
		4101 4102 4103	4078, 4079 4078 4085, 4086, 4087, 4088, 4089, 4090
7	Easement for Padmount Substation 2.75 Wide (F)	4031, 4106	Epsilon Distribution Ministerial Holding Corporation
8	Restriction on the Use of Land (G)	Part of lots 4030, 4031 and 4106	Epsilon Distribution Ministerial Holding Corporation
9	Restriction on the Use of Land (L)	Part of lot 4030, 4031, 4032 and 4106	Epsilon Distribution Ministerial Holding Corporation
10	Restriction on the use of Land (Salinity Plan & Lot Classification Report)	4001 to 4103 inclusive	Camden Council
11	Restriction on the use of Land (Traffic Acoustic Report)	4001 to 4006 inclusive 4031 to 4034 inclusive	Camden Council
12	Restriction on the use of Land (Driveways & Pram Ramps)	4001 to 4103 inclusive	Camden Council
13	Restriction on the use of Land (Birling Building Covenants)	Each and every lot (except lots 4105 and 4106)	Each and every other lot (except lots 4105 and 4106) 104/1298342
14	Restriction on the use of Land (Development Consents and Birling Design Guidelines)	Each and every lot (except lots 4105 and 4106)	Each and every other lot (except lots 4105 and 4106) 104/1298342
15	Restriction on the use of Land (Double Storey Requirement)	4006 4007 4016	104/1298342, 4001 – 4005 inclusive, 4007 – 4106 inclusive 104/1298342, 4001 – 4006 inclusive, 4008 – 4106 inclusive 104/1298342, 4001 – 4015 inclusive, 4017 – 4106 inclusive

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Council Authorised Person

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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 lot(s), road(s), bodies or Prescribed Authorities
		4017	104/1298342, 4001 – 4016 inclusive, 4018–4106 inclusive
		4031	104/1298342, 4001 – 4030 inclusive, 4032–4106 inclusive
		4032	104/1298342, 4001 – 4031 inclusive, 4033–4106 inclusive
		4033	104/1298342, 4001 – 4032 inclusive, 4034 – 4106 inclusive
		4034	104/1298342, 4001 – 4033 inclusive, 4035 – 4106 inclusive
		4039	104/1298342, 4001 – 4038 inclusive, 4040 – 4106 inclusive
		4054	104/1298342, 4001 – 4053 inclusive, 4055 – 4106 inclusive
		4055	104/1298342, 4001 – 4054 inclusive, 4056 – 4106 inclusive
		4065	104/1298342, 4001 – 4064 inclusive, 4066 – 4106 inclusive
		4066	104/1298342, 4001 – 4065 inclusive, 4057 – 4106 inclusive
		4077	104/1298342, 4001 – 4067 inclusive, 4078 – 4106 inclusive
		4078	104/1298342, 4001 – 4077 inclusive, 4079 – 4106 inclusive
		4091	104/1298342, 4001 – 4090 inclusive, 4092 – 4106 inclusive
		4092	104/1298342, 4001 – 4091 inclusive, 4093 – 4106 inclusive

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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 lot(s), road(s), bodies or Prescribed Authorities
		4093	104/1298342, 4001 – 4092 inclusive, 4094 – 4106 inclusive
		4094	104/1298342, 4001 – 4093 inclusive, 4095 – 4106 inclusive
		4095	104/1298342, 4001 – 4094 inclusive, 4096 – 4106 inclusive
		4096	104/1298342, 4001 – 4095 inclusive, 4097 – 4106 inclusive
		4097	104/1298342, 4001 – 4096 inclusive, 4098 – 4106 inclusive
		4098	104/1298342, 4001 – 4097 inclusive, 4099 – 4106 inclusive
		4099	104/1298342, 4001 – 4098 inclusive, 4100 – 4106 inclusive
		4100	104/1298342, 4001 – 4099 inclusive, 4101 – 4106 inclusive
		4101	104/1298342, 4001 – 4100 inclusive, 4102 – 4106 inclusive
		4102	104/1298342, 4001 – 4101 inclusive, 4103 – 4106 inclusive
		4103	104/1298342, 4001 – 4102 inclusive, 4104 – 4106 inclusive
16	Restriction on the use of Land (Fence Type 3)	4002	104/1298342, 4001, 4003 - 4106 inclusive
		4003	104/1298342, 4001 – 4002 inclusive, 4004 - 4106 inclusive
		4004	104/1298342, 4001 – 4003 inclusive, 4005 - 4106 inclusive
		4005	104/1298342, 4001 – 4004 inclusive, 4006 - 4106 inclusive

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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 lot(s), road(s), bodies or Prescribed Authorities
		4006	104/1298342, 4001 – 4005 inclusive, 4007 - 4106 inclusive
		4016	104/1298342, 4001 – 4015 inclusive, 4017 - 4106 inclusive
		4017	104/1298342, 4001 – 4016 inclusive, 4018 - 4106 inclusive
		4031	104/1298342, 4001 – 4030 inclusive, 4032 - 4106 inclusive
		4032	104/1298342, 4001 – 4031 inclusive, 4033 - 4106 inclusive
		4033	104/1298342, 4001 – 4032 inclusive, 4034 - 4106 inclusive
		4034	104/1298342, 4001 – 4033 inclusive, 4035 - 4106 inclusive
		4035	104/1298342, 4001 – 4034 inclusive, 4034 - 4106 inclusive
		4036	104/1298342, 4001 – 4035 inclusive, 4037 - 4106 inclusive
		4037	104/1298342, 4001 – 4036 inclusive, 4038 - 4106 inclusive
		4038	104/1298342, 4001 – 4037 inclusive, 4039 - 4106 inclusive
		4039	104/1298342, 4001 – 4038 inclusive, 4039 - 4106 inclusive
		4054	104/1298342, 4001 – 4053 inclusive, 4055 - 4106 inclusive
		4065	104/1298342, 4001 – 4064 inclusive, 4066 - 4106 inclusive
		4066	104/1298342, 4001 – 4065 inclusive, 4067 - 4106 inclusive

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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 lot(s), road(s), bodies or Prescribed Authorities
		4091	104/1298342, 4001 – 4090 inclusive, 4033 - 4106 inclusive
		4092	104/1298342, 4001 – 4091 inclusive, 4093 - 4106 inclusive
		4093	104/1298342, 4001 – 4092 inclusive, 4094 - 4106 inclusive
		4094	104/1298342, 4001 – 4093 inclusive, 4095 - 4106 inclusive
		4095	104/1298342, 4001 – 4094 inclusive, 4096 - 4106 inclusive
		4096	104/1298342, 4001 – 4095 inclusive, 4097 - 4106 inclusive
		4097	104/1298342, 4001 – 4096 inclusive, 4098- 4106 inclusive
		4098	104/1298342, 4001 – 4097 inclusive, 4099 - 4106 inclusive
		4099	104/1298342, 4001 – 4098 inclusive, 4100 - 4106 inclusive
		4100	104/1298342, 4001 – 4099 inclusive, 4101 - 4106 inclusive
		4101	104/1298342, 4001 – 4100 inclusive, 4102 - 4106 inclusive
		4102	104/1298342, 4001 – 4101 inclusive, 4103- 4106 inclusive
		4103	104/1298342, 4001 – 4102 inclusive, 4104 - 4106 inclusive
17	Restriction on the use of Land (No Subdivision or Dual Occupancy)	Each and every lot (except lots 4103, 4104, 4105 and 4106)	Each and every other lot (except lots 4103, 4104, 4105 and 4106) 104/1298342

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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 lot(s), road(s), bodies or Prescribed Authorities
18	Restriction on the use of Land (Secondary Dwelling)	Each and every lot (except lots 4007, 4039, 4078, 4092)	Each and every lot (except lots 4007, 4039, 4078, 4092, 4102) 104/1298342
19	Restriction on the Use of Land (No Alteration to 1.8m high Boundary Fences)	4016 4017 4054	104/1298342, 4001 – 4015 inclusive, 4017 - 4106 104/1298342, 4001 – 4016 inclusive, 4018 - 4106 104/1298342, 4001 – 4053 inclusive, 4053 - 4106
20	Positive Covenant (A)	Part of lot 4105	Camden Council

PART 1A (Release)

Number of item shown in the intention panel on the plan.	Identity of easement or profit à prendre, to be released and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
1			
2			

PART 2 (Terms)**Dictionary****1 Defined Terms**

The following terms have the following meanings where used in this Instrument:

- (a) **Act** means the *Conveyancing Act 1919*.
- (b) **Agent** means a person authorised by the Owner.
- (c) **Birling Design & Landscape Guidelines** means the design guidelines (as may be varied from time to time) specified by the Design Review Panel which regulate all building and ancillary landscaping work as applicable to the Development.
- (d) **Council** means Camden Council.
- (e) **Design Review Panel** means design review panel constituted from time to time by Birling Estate Developments Pty Ltd ACN 668 807 663.
- (f) **Development** means the whole of the multi-staged development known as "Birling" comprised of the land known as lots 101-108 (both inclusive) in deposited plan 1298342, lot 121 in deposited plan

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Council Authorised Person

Plan: Plan of subdivision of Lot 3096 in DP1318906 covered by Council Subdivision Certificate No.

1284706 and lot 4 in deposited plan 1218798 (prior to subdivision for the purpose of the development of Birling) or any future lots created from the subdivision of these parcels.

- (g) **Instrument** means this s88B instrument.
- (h) **Owner** means a person who is entitled to an estate or interest in possession in a lot from time to time.

Terms

2 Terms of Easement to Drain Water Variable Width (A) numbered 1 in the abovementioned plan

- 2.1 An easement for drainage of water on the terms set out in Part 3 of Schedule 8 of the Conveyancing Act, 1919, as amended, is created.

Name of person or authority empowered to release, vary or modify the Easement to Drain Water Variable Width (A) numbered 1 in the abovementioned plan

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

3 Terms of Right of Access 4 Wide (B) numbered 2 in the abovementioned plan

- 3.1 A right of access on the terms set out in Part 14 of Schedule 8 of the Conveyancing Act, 1919, as amended, is created.

Name of person or authority empowered to release, vary or modify the Right of Access 4 Wide (B) numbered 2 in the abovementioned plan

The Owner of the lot benefited

- 3.2 The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

4 Terms of Easement for Services 4 Wide (B) numbered 3 in the abovementioned plan

- 4.1 An easement for services on the terms set out in Part 11 of Schedule 8 of the Conveyancing Act, 1919, as amended, is created.

Name of person or authority empowered to release, vary or modify the Easement for services 4 Wide (B) numbered 3 in the abovementioned plan

The Owner of the lot benefited

- 4.2 The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

5 Terms of Easement for Support & Maintenance 0.9 Wide (C) numbered 4 in the abovementioned plan

- 5.1 The Owner of the lot burdened grants:

- (a) to the Owner of the lot benefited full and free right and liberty to have a building or any part of a building or any structure erected on the lot benefited, supported, upheld and maintained by the soil and structure erected in that portion of the lot burdened denoted (C) in the abovementioned plan; and
- (b) to the Owner of the lot benefited, and every Agent of the Owner of the lot benefited, full and free right and liberty to enter upon the lot burdened with any tools, implements or machinery necessary and remain there for any reasonable time for the purpose of repairing and

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Council Authorised Person

Plan: Plan of subdivision of Lot 3096 in DP1318906 covered by Council Subdivision Certificate No.

maintaining any part of the soil and structure erected on that portion of the lot burdened denoted (C) in the abovementioned plan.

- 5.2 The Owner of the lot burdened must not allow any part of a building or any structure or item to be constructed or to remain on that portion of the lot burdened denoted (C) in the abovementioned plan that would prevent or constrain access by the Owner of the lot benefited to that portion of the lot burdened denoted (C) in the abovementioned plan. For the avoidance of doubt, the granting of this easement is subject to the right of Owner of the lot burdened constructing or having in existence, eaves and guttering on a building or structure on the lot burdened that overhang that portion of the lot burdened denoted (C) in the abovementioned plan, provided they do not prevent or constrain reasonable access and use by the Owner of the lot benefited to that portion of the lot denoted (C) in the abovementioned plan for its intended purpose pursuant to the easement created under this clause 5.
- 5.3 The Owner of the lot benefited may:
- (a) at the expiration of a reasonable notice period (in the circumstances) given to the Owner or occupier of the lot burdened, use that portion of the lot burdened denoted (C) in the abovementioned plan, for the purpose of carrying out necessary work (including but not limited to construction, maintenance and repair) on:
 - (i) the lot benefited; and
 - (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 the purpose set out in clause 5.3(a) including:
 - (i) entering into the lot burdened;
 - (ii) taking anything onto the lot burdened; and
 - (iii) carrying out the necessary works.
- 5.4 In exercising the powers in this easement, the Owner of the lot benefited must:
- (a) ensure all work on the lot benefited is done properly and carried out as quickly as is practicable;
 - (b) cause as little inconvenience as is practicable to the Owner and any occupier of the lot burdened;
 - (c) cause as little damage as is practicable to the lot burdened and any improvement on it;
 - (d) restore the lot burdened as nearly as is practicable to its former condition, and
 - (e) make good any collateral damage.

Name of person or authority whose consent is required to release, vary or modify the Easement for Support & Maintenance 0.9 Wide (C) numbered 4 in the abovementioned plan

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

6 Terms of Easement to Drain Water 4 Wide (D) numbered 5 in the abovementioned plan

- 6.1 An easement for drainage of water on the terms set out in Part 3 of Schedule 8 of the *Conveyancing Act, 1919*, as amended, is created.

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Council Authorised Person

Plan: Plan of subdivision of Lot 3096 in DP1318906 covered by Council Subdivision Certificate No.

- 6.2 In addition, the Owner of the lot burdened must not alter the surface levels of the ground within that part of the lot burdened denoted (D) in the abovementioned plan.

Name of person or authority whose consent is required to release, vary or modify the Easement to Drain Water 4 Wide (D) numbered 5 in the abovementioned plan

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

7 Terms of Easement for Support & Maintenance 0.9 Wide (E) numbered 6 in the abovementioned plan

- 7.1 The Owner of the lot burdened grants to the Owner of the lot benefited:

- (a) full and free right and liberty to have the retaining wall, any part of the retaining wall or any structure appurtenant to the retaining wall constructed on the lot benefited, supported, upheld and maintained by the soil and any structure erected in that portion of the lot burdened denoted (E) in the abovementioned plan; and
- (b) full and free right for the Owner of the lot benefited and every Agent of the Owner of the Lot benefited, to:
 - (i) at the expiration of a reasonable notice period (in the circumstances) given to the Owner or occupier of the lot burdened, use that portion of the lot burdened denoted (E) in the abovementioned plan, for the purpose of carrying out necessary work (including but not limited to construction, maintenance and repair) on the retaining wall located on the lot benefited which cannot otherwise reasonably be carried out;
 - (ii) do anything reasonably necessary for the purpose set out in clause 7.1(b) including:
 - (A) entering into the lot burdened;
 - (B) taking anything onto the lot burdened; and
 - (C) carrying out the necessary works.

- 7.2 In exercising the powers in this easement, the Owner of the lot benefited must:

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

- 7.3 The Owner of the lot burdened must maintain and repair the retaining wall in that portion of the lot burdened denoted (E) in the abovementioned plan and is not permitted to remove or damage any part of the retaining wall including subsoils, alter the surface level, carry out any excavation or restrict access within that part of the lot burdened denoted (E) in the abovementioned plan.

Name of person or authority whose consent is required to release, vary or modify the Easement for Support & Maintenance 0.9 Wide (E) numbered 6 in the abovementioned plan

Camden Council

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Council Authorised Person

Plan: Plan of subdivision of Lot 3096 in DP1318906 covered by Council Subdivision Certificate No.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

8 Terms of easement for Padmount Substation 2.75 Wide (F) numbered 7 in the abovementioned plan

- 8.1 The terms set out in Section 1 of Memorandum No. AR578978 registered at NSW Land Registry Services are incorporated into this Instrument.

Name of person or authority empowered to release, vary or modify the Easement for Padmount Substation 2.75 Wide (F) numbered 7 in the abovementioned plan

Epsilon Distribution Ministerial Holding Corporation

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

9 Terms of Restriction on the Use of Land (G) numbered 8 in the abovementioned plan

- 9.1 The terms set out in Section 8 Memorandum No. AR578978 registered at NSW Land Registry Services are incorporated into this Instrument.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land (G) numbered 8 in the abovementioned plan

Epsilon Distribution Ministerial Holding Corporation

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

10 Terms of Restriction on the Use of Land (L) numbered 9 in the abovementioned plan

- 10.1 The terms set out in Section 9 of Memorandum No. AR578978 registered at NSW Land Registry Services are incorporated into this Instrument.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land (L) numbered 9 in the abovementioned plan

Epsilon Distribution Ministerial Holding Corporation

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

11 Terms of Restriction on the Use of Land numbered 10 in the abovementioned plan

- 11.1 In this restriction "**Salinity Plan & Lot Classification and Salinity Assessment**" means the Salinity Investigation and Management Plan – Stage 1 Birling Project 204684.01 dated June 2022 and the **[#Report on Lot Classification and Salinity Assessment -Stage 4 Birling Project XXXX dated XXXX # to be completed when Stage 4 works are carried out and the report is available#]** both prepared by Douglas Partners Pty Ltd.
- 11.2 No construction work including earthworks, imported fill, landscaping, buildings, and associated infrastructure is permitted on the lot burdened unless carried out, or constructed in accordance with the Salinity Plan & Lot Classification and Salinity Assessment.
- 11.3 No building shall be constructed on the lot burdened unless the footings/foundations have been designed by a qualified Civil/Structural Engineer.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 10 in the abovementioned plan

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Council Authorised Person

Plan: Plan of subdivision of Lot 3096 in DP1318906 covered by Council Subdivision Certificate No.

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

12 Terms of Restriction on the Use of Land numbered 11 in the abovementioned plan

12.1 In this restriction, "**Traffic Assessment Acoustic Report**" means the approved acoustic report "Birling Desktop Traffic Noise Assessment for Stage 3, 4 & 5 – TM564-04F02" dated 20 October 2025 prepared by Renzo Tonin & Associates Acoustics.

12.2 No dwelling shall be constructed on the lot burdened unless constructed in accordance with Traffic Assessment Acoustic Report.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 11 in the abovementioned plan

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

13 Terms of Restriction on the Use of Land numbered 12 in the abovementioned plan

No driveway is permitted to be constructed on a lot within 1m of tram ramps or in locations where it would conflict with other road related infrastructure.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 12 in the abovementioned plan

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

14 Terms of Restriction on the Use of Land numbered 13 in the abovementioned plan

14.1 In this restriction on use of land, **Birling** means Birling Estate Pty Ltd ACN 657 548 073 and each of its successors and assigns excluding purchasers on sale.

14.2 No subdivision of a lot burdened shall be carried out resulting in a lot burdened becoming more than one lot.

14.3 No fencing shall be constructed or erected on the lot burdened to divide it from any adjoining land owned by Birling unless Birling grants its consent to the construction or erection of the fencing and the fencing is constructed or erected without expense to Birling or its successors or assigns (other than purchasers of lots).

14.4 No structure of a temporary or relocatable character or nature which is intended for habitation, including, but without limitation, any tent, shed, shack, garage, trailer, camper or caravan, shall be used at any time as a dwelling or residence on the lot burdened.

14.5 No commercial activity, including without limitation, the operation of a display home, shall be conducted or carried out on any lot burdened without the approval of Birling.

14.6 No wall of any dwelling constructed on the lot burdened is to be located within 900mm of the side boundary of the lot burdened unless there is a registered easement for support and maintenance addressing the support, access and maintenance obligations benefiting the adjoining lot.

14.7 No fuel storage tanks (except any such tank or tanks used for oil heating purposes) shall be placed upon or permitted to remain on any lot burdened.

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Council Authorised Person

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- 14.8 No noxious, noisome or offensive occupation, trade, business, manufacturing or home industry shall be conducted or carried out on any lot burdened.
- 14.9 No animal breeding shall be conducted or carried out on any lot burdened.
- 14.10 No commercial or boarding kennels shall be constructed or permitted to remain on any lot burdened.
- 14.11 No advertisement hoarding sign or matter of any description shall be erected or displayed on any lot burdened without the prior written consent of Birling having been given to the Owner of the lot burdened. The required approval may be given or withheld at the absolute discretion of Birling but nothing in this restriction shall prevent the Owner of any lot burdened from displaying not more than one (1) sign on the lot burdened advertising the fact that the dwelling on the relevant lot burdened is for sale if: -
- (a) a dwelling is constructed on the lot burdened;
 - (b) any such sign does not exceed nine hundred millimetres (900mm) in width and nine hundred millimetres (900mm) in height; and
 - (c) any such sign is painted and/or decorated in its entirety by a professional signwriter.
- 14.12 No motor truck, lorry, semi-trailer or commercial vehicle with a load carrying capacity exceeding two point five (2.5) tonnes shall be parked or permitted to be parked on any lot burdened, adjoining lot and/or public street unless the same is used in connection with the construction of a dwelling on the relevant lot burdened.
- 14.13 No building shall be permitted to be constructed on the lot burdened nor shall the construction of any building be permitted to continue on the lot burdened unless the lot burdened is maintained in clean and tidy condition as is practicable having regard to the nature of the construction on the lot burdened.
- 14.14 No clothes line shall be erected or permitted to remain on the lot burdened unless the same is not visible from any public road and/or place but nothing in this restriction shall prevent the erection and maintenance of a clothes line where all care has been taken to ensure that the same is as least obvious as possible having regard to the topography of the relevant lot burdened as related to any surrounding public roads and/or places.
- 14.15 No air conditioning plant and/or equipment shall be installed or permitted to remain on any building constructed on the lot burdened unless the same is either:
- (a) not visible from any public road and/or place; or
 - (b) is screened from any public road and/or place in a manner approved by Birling.
- 14.16 No radio masts and/or antennas shall be erected or permitted to remain on any lot burdened unless the same are not visible from any public road and/or place.
- 14.17 No television masts and/or antennas shall be erected or permitted to remain on the lot burdened unless the same are erected at or near the rear of the main building erected on the lot burdened.
- 14.18 No child minding centre, day care centre, preschool, long day care centre, kindergarten, occasional childminding centre or such other like childminding facility or activity shall be constructed or permitted to remain or conducted or carried out on the lot burdened without the prior written consent of Birling having been given to the Owner of the lot burdened. The required approval may be given or withheld at the absolute discretion of Birling.
- 14.19 No visually obtrusive or unsightly items such as hot water storage tanks, rain water tanks, utility metres, roof and window mounted air-conditioning units, condensers, solar roof collectors, air-conditioning service lines, clotheslines, aerials, gardens sheds etc are to be directly visible from the

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street/public places and should have a minimal visual impact on an adjacent dwelling including their private open space.

- 14.20 No external (attached to the outer side of the façade or windows of a dwelling) shutters, blinds, canopies, awnings, security devices or any external improvement visible from the ground level outside the lot burdened other than fly screens is to be constructed, installed or maintained on or in a lot burdened.
- 14.21 No garbage containers and recyclable materials are to be stored on or in a lot burdened unless secured and stored so that they are hidden from view outside the lot burdened and do not omit odours.
- 14.22 No vehicle may be parked on a lot burdened unless it is parked:
- (a) in a garage or driveway on the lot burdened; or
 - (b) in an area designated as being an area where a vehicle may be parked.
- 14.23 No boats, trailers, caravans, campers or like vehicles or unregistered vehicles shall be parked or remain parked on or in a lot burdened if the boat, trailer, caravan, camper, like vehicle or unregistered vehicle is visible from the ground level outside the lot burdened.
- 14.24 No overgrown vegetation, weeds, grass or greenery shall be permitted to remain on a lot burdened.
- 14.25 No dwelling on a lot burdened shall be permitted to fall into disrepair.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 13 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

15 Terms of Restriction on the Use of Land numbered 14 in the abovementioned plan

- 15.1 No building, driveway or pathway shall be constructed on the lot burdened, and the Owner of the lot burdened must not make or consent to the making of an application to the Council or a private certifying authority for a development consent or complying development certificate to approve or certify a building, driveway or pathway to be constructed on the lot burdened, unless the building, driveway, pathway and ancillary landscaping and fencing complies with:
- (a) the Birling Design & Landscape Guidelines; and
 - (b) any other conditions required by any relevant consent authority.
- 15.2 The Owner of the lot burdened must not do any of the following unless and until the Owner of the lot burdened obtains the prior written approval of the Design Review Panel:
- (a) erect any building or structure;
 - (b) carry out any siteworks (including fencing, excavation, filling or retaining walls);
 - (c) erect a fence or wall;
 - (d) construct a driveway;

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- (e) erect any external sign, hoarding, tank, clothes line, letter box, mast, pole, television antenna, satellite dish or radio aerial either freestanding or fixed to any building; or
- (f) erect or place any external floodlights or spotlights to any lights illuminating any pool or other similar enclosure.

15.3 These restrictions shall expire and have no further force or effect on the date being two years after the date an occupancy certificate is issued to the Owner of a dwelling approved by the Design Review Panel on the last remaining lot in the Development such that there are no further vacant lots in the Development Site (excluding any lots upon which no dwelling is permitted to be constructed).

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 14 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

16 Terms of Restriction on the Use of Land numbered 15 in the abovementioned plan

No dwelling shall be constructed or permitted to be constructed or remain on the lots burdened other than double storey dwellings.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 15 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

17 Terms of restriction on the Use of Land numbered 16 in the abovementioned plan

17.1 No dwelling shall be constructed or permitted to be constructed or remain on a lot burdened unless a front fence (facing the street) is also constructed or established on the lot burdened and that the front fence:

- (a) complies with Fence Type 3 requirements in the Birling Design & Landscape Guidelines; and
- (b) complies with any other conditions required by any relevant consent authority.

17.2 These restrictions shall expire and have no further force or effect on the date being two years after the date an occupancy certificate is issued to the Owner of a dwelling approved by the Design Review Panel on the last remaining lot in the Development such that there are no further vacant lots in the Development Site (excluding any lots upon which no dwelling is permitted to be constructed).

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 16 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in

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the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

18 Terms of Restriction on the Use of Land numbered 17 in the abovementioned plan

18.1 The Owner of the lot burdened must not undertake or allow to be undertaken any Prohibited Development on the lot burdened notwithstanding the permissibility of the Prohibited Development.

18.2 **Prohibited Development** means:

- (a) any subdivision of the lot including but not limited to a strata or deposited plan subdivision; or
- (b) the erection of a dual occupancy being either:
 - (i) 2 dwellings on the lot attached to each other; or
 - (ii) 2 detached dwellings on the lot.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 17 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

19 Terms of Restriction on the Use of Land numbered 18 in the abovementioned plan

19.1 The Owner of the lot burdened must not undertake or allow to be undertaken any Prohibited Development on the lot burdened notwithstanding the permissibility of the Prohibited Development.

19.2 **Prohibited Development** means the erection of a secondary dwelling on the lot including but not limited to a 'granny flat' secondary dwelling.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land numbered 18 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

20 Terms of Restriction on the Use of Land numbered 19 in the abovementioned plan

20.1 The Owner of the lot burdened must not alter, damage, remove or replace the 1.8m high boundary fences constructed by the original owner on the lot burdened (**1.8m high Boundary Fences**) unless and until the Owner of the lot burdened obtains the prior written approval of the Design Review Panel.

20.2 The Owner of the lot burdened is responsible at its cost:

- (a) for the repair and maintenance of the 1.8m high Boundary Fences; and
- (b) to keep the 1.8m high Boundary Fences in good order, repair and condition; and

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- (c) if damaged or otherwise necessary, to replace the 1.8m high Boundary Fences in whole or in part, such partial or total replacement to be subject to the Owner of the lot burdened obtaining the prior written approval of the Design Review Panel.

Name of person or authority empowered to release, vary or modify the Restriction on the Use of Land 'No Alteration to 1.8m high Boundary Fences' numbered 19 in the abovementioned plan

Birling Estate Pty Ltd ACN 657 548 073 and/or its successors, nominees and/or assigns (other than purchasers on sales) for such period as it is the Owner of any lot or any part or interest in any lot in the abovementioned plan or is the Owner of any lot or any part or interest in any lot benefited by this restriction on Use of Land.

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

21 Terms of Positive Covenant (A) numbered 20 in the abovementioned plan

21.1 The Owner of the lot burdened must at all times in respect of the stormwater drainage detention basin on the lot burdened denoted (A) (**Basin**):

- (a) construct, clean, maintain and repair all pits, tanks, pipelines, orifice plates, trench barriers, walls, earth banks and other related structures;
- (b) maintain the existing surface levels;
- (c) not do anything that would adversely affect the water quality in the Basin;
- (d) regularly mow and remove grass clippings and debris as necessary to ensure the efficient operation at all times of the Basin, **provided however** that Camden Council may enter upon the lot burdened with all necessary materials and equipment at all reasonable times and on reasonable notice but at any time and without notice in the case of an emergency to:
 - (i) view the state of repair of the Basin;
 - (ii) ascertain whether or not there has been a breach of the terms of this covenant; and
 - (iii) to execute any work required to remedy a breach of the terms of this covenant, if the Owner of the lot burdened has not taken steps to remedy the breach within 14-days of the date of receipt of a written notice from Camden Council requiring remedy of the breach, and
 - (A) any such works executed by Camden Council are without prejudice to Camden Council's other remedies; and
 - (B) Camden Council may recover on demand the cost of such remedial work from the Owner of the lot burdened as a liquidated debt.

Name of person or authority empowered to release, vary or modify Positive Covenant (A) numbered 20 in the abovementioned plan

Camden Council

The cost and expense of such release, variation or modification shall be borne by the person or corporation requesting same in all respects.

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Council Authorised Person

Plan:

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Execution by Registered Proprietor

Executed by Birling Estate Pty Ltd ACN 657 548

073 in accordance with section 127 of the
Corporations Act 2001

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Signature of director

.....
Signature of director/secretary

.....
Name of director – BLOCK LETTERS

.....
Name of director/secretary – BLOCK LETTERS

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Council Authorised Person

Plan:

Plan of subdivision of Lot 3096 in DP1318906 covered by Council Subdivision Certificate No.

Execution by the Prescribed Authority

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
Level 41, 8 Parramatta Square
10 Darcy Street
Parramatta NSW 2150

Power of attorney: _____

EE reference: _____

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Council Authorised Person

Plan:

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Council Subdivision Certificate No.

Execution by Camden Council

Signed on behalf of **The Council of Camden** ABN 31 117 341 764
by its Authorised Delegate pursuant to s.377 of the Local Government Act 1993

.....
Signature of Authorised Delegate

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Name of Authorised Delegate – BLOCK LETTERS

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

.....
Signature of witness

.....
Name of witness – BLOCK LETTERS

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Address of witness

Execution by Mortgagee

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Council Authorised Person