

DP270736

COVER SHEET FOR SECTION 88B INSTRUMENT

ATTENTION

A Community Plan may be subject to future subdivision that could also contain a Section 88B Instrument. This instrument could then comprise separate documents registered on different dates.

Particulars of each document are as follows:-

Document Number	Plan/Instrument Registration Date	Number of Sheets in Plan	Number of Sheets in Section 88B Instrument
Document 1	2.12.2011	4	6

TOTAL NUMBER OF SHEETS OF SECTION 88B INSTRUMENT IMAGED

(INCLUDING COVER SHEET)

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE CREATED
 PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919.**

ePlan (DOC.1)

Lengths are in metres.

(Sheet 1 of 6 sheets)

Plan: **DP270736**

Plan of Subdivision of Lot 12 in DP 518824
 covered by Subdivision Certificate No...*121/2011*
 of...*16 NOVEMBER 2011*

Full name and address
 of the owner of the land

One Tree Hill Projects Pty Limited
 P. O. Box 93
 Northmead NSW 2152

Part 1

Number of items 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 for Drainage of Water 3 Wide – 'A'	Lot 1	Parramatta City Council
2	Easement for Support 0.12 Wide – 'C'	Lot 2 Lot 3 Lot 4 Lot 5 Lot 6 Lot 7 Lot 8 Lot 9 Lot 11 Lot 18 Lot 19 Lot 20	Lots 3 Lots 2,4 Lots 3,5 Lots 4,6 Lots 5,7 Lots 6,8 Lots 7,9 Lot 8 Lot 20 Lot 19 Lots 18,20 Lots 11,19
3	Easement for Padmount Substation 2.75 Wide - 'B'	Lot 1	Endeavour Energy
4	Restriction on the Use of Land – 'D'	Lots 1,10	Endeavour Energy
5	Restriction on the Use of Land – 'E'	Lots 1,10	Endeavour Energy
6	Restriction on the use of land	Lots 1 to 20 inclusive	Parramatta City Council
7	Positive Covenant	Lots 1 to 20 inclusive	Parramatta City Council
8	Restriction On the Use of Land – 'F'	Lot 1	Lots 2 to 20 inclusive
9	Restriction On the Use of Land	Lots 1 to 20 inclusive	Every Other Lot

Approved by the Council of the City of Parramatta

R Smith
 Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE CREATED
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(Sheet 2 of 6 sheets)

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Part 2

1. Terms of Easement for Support numbered two in the abovementioned plan

Full and free right for the person in whose favour the easement is created to use the concrete slab and/or foundations and wall constructed on the servient tenement for the purpose of supporting the building and improvements erected on the dominant tenement or any part thereof and allowing any minor encroachment of the abutting wall onto the servient tenement provided that such minor encroachment will not exceed 0.03 metres.

2. Terms of Easement for Padmount Substation numbered three in the abovementioned plan

As set out in memorandum number 9262886 registered at Land and Property Information NSW.
Subject to changing Integral Energy Australia to Endeavour Energy in Clause 5.1
Name of Authority empowered to release, vary or modify easement thirdly referred to in the abovementioned plan.

Endeavour Energy

3. Terms for the Restriction on the use of land numbered four in the abovementioned plan

1. No building shall be erected or permitted to remain within the restriction site unless:
 - 1.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating, and
 - 1.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating and the owner provides the authority benefited with an engineer's certificate to this effect.
2. The fire ratings mentioned in clause 1 must be achieved without the use of fire fighting systems such as automatic sprinklers.
3. Definitions:
 - 3.1 "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.

Approved by the Council of the City of Parramatta

A. Smith
Authorised Person

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(Sheet 3 of 6 sheets)

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Part 2

3.2 **"building"** means a substantial structure with a roof and walls and includes any projections from the external walls.

3.3 **"erect"** includes construct, install, build and maintain.

3.4 **"restriction site"** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan ~~up to a maximum height of 6 metres from the level of the~~ ~~substation footing.~~



Name of Authority empowered to release, vary or modify restriction fourthly referred to in the abovementioned plan.

Endeavour Energy

4. Terms for the Restriction on the use of land numbered five in the abovementioned plan:

1. No swimming pool or spa shall be erected or permitted to remain within the restriction site.

2. Definitions:

2.1 **"erect"** includes construct, install, build and maintain.

2.2 **"restriction site"** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

Name of Authority empowered to release, vary or modify restriction fifthly referred to in the abovementioned plan.

Endeavour Energy

5. Terms of Restriction on the use of land numbered six 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 which is constructed on the lot(s) burdened without the prior consent in writing of Parramatta City Council. The expression "on site stormwater detention system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to the temporary storage. Any on site stormwater detention system constructed on the lot burdened is hereafter referred to as "the system". The on-site stormwater detention system is detailed on the plans approved by Parramatta City Council as Construction Certificate No.CC/98/2009 on 29th January 2010.

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Authorised Person

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(Sheet 4 of 6 sheets)

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Part 2

Name of Authority having the power to release, vary or modify the restriction numbered six is
Parramatta City Council.

6. Terms of Positive Covenant numbered seven in the abovementioned plan

1. The registered proprietor of the lots(s) hereby burdened will in respect of the system:

- (a) keep the system clean and free of silt, dirt, rubbish and debris.
- (b) maintain and repair at the sole expense of the registered proprietors 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.

2. Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:-

- (i) 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 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.
- (ii) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
 - (a) any expense reasonably incurred by it in exercising its powers under sub-paragraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the said work, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
 - (b) legal costs on an indemnity basis for 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.

3. This covenant shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Act.

Approved by the Council of the City of Parramatta


Authorised Person

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Part 2

For the purposes of the covenant, "the system" means the on-site stormwater detention system constructed on the land as detailed on the plans approved by Parramatta City Council as Construction Certificate No. CC/98/2009 on 29th January 2010, including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage. A copy of this Construction Certificate is held on Council file No. DA 1102/2007.

Name of the Authority having the power to release vary or modify the positive covenant numbered seven is Parramatta City Council.

7. Terms of Restriction on the use of land numbered eight in the abovementioned plan

1. No planting of any vegetation other than endemic species are permitted to occur or remain within the area designated 'F' in the plan.
2. No action is permitted which may result in the damage to or the poisoning of any tree or vegetation within the area designated 'F' in the plan other than for the purposes of maintenance.
3. No tree or vegetation is permitted to be trimmed or removed within the area designated 'F' in the plan without the prior written consent of the Neighbourhood Association and shall be undertaken in accordance with the maintenance plan contained within the Community Management Statement.
4. The following are not permitted within the area designated 'F' in the plan without the prior written consent of the Neighbourhood Association and shall be undertaken in accordance with the maintenance plan contained within the Community Management Statement:
 - . disturbance or removal of any native vegetation, dead wood, hollow logs or rocks.
 - . disposal of liquid or solid waste including effluent, chemicals or animal manure.
 - . fertilising or mulching.
 - . grazing of livestock, agriculture or hobby farming; or
 - . storage or disposal of materials
5. No habitable building, shed, garage, pool, tennis court or other structure shall be erected or remain within the area designated 'F' in the plan without the prior written consent of the Neighbourhood Association.

8. Terms of Restriction on the use of land numbered nine in the abovementioned plan

No fence shall be erected on each lot burdened to divide it from any adjoining land owned by One Tree Projects Pty Limited without the consent of One Tree Hill Projects Pty Limited or its successors other than purchasers on sale but such consent shall not be withheld if such fence is erected without expense to One Tree Hill Projects Pty Limited or its successors other than purchasers on sale

Approved by the Council of the City of Parramatta

R Smith
.....
Authorised Person

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Part 2

PROVIDED HOWEVER that this restriction in regard to fencing shall be binding on a purchaser his executors and administrators and assigns only during the such time as One Tree Hill Projects Pty Limited or its successors other than purchasers on sale is the registered proprietor of any land within the plan or any land immediately adjoining the land within the plan.

Executed by One Tree Hill Projects Pty Limited ABN 33 103 235 196 in accordance with section 127 of the Corporations Act 2001 (Cth) by:

Clarissa Davis
Signature of Director

[Signature]
Signature of Director/Secretary

CLARISSA DAVIS
Print name of Director

JONATHAN COOK
Print name of Director/Secretary

Mortgagee under Mortgage No. AG53859
Signed at 11 of this 21st day of
NOVEMBER 2011 for National
Australia Bank Limited ABN 12 004 044 937
by ROBERT JOHN FEDERER
its duly appointed Attorney under Power of
Attorney No. 39 Book 4512

[Signature]
Level 2 Attorney
[Signature]
Witness/Bank Officer

[Signature]
Signed on behalf of Endeavour Energy
Australia (ABN: 59 253 130878) by its
Attorney pursuant to Power of Attorney
Book 4573-No 297 in the presence of:
4613 641

[Signature]
Signature of Witness

Deborah Pears
Name of Witness
c/- Endeavour Energy
51 Huntingwood Drive
Huntingwood NSW 2148

[Signature]
Signature of Attorney
Name: Geoff Riethmuller
Position Network Property Mgr

1-11-2011
Date of Execution
URS 9959

Approved by the Council of the City of Parramatta

[Signature] - Robyn Smith
Authorised Person
SUPERVISOR PLANNING CERTIFICATES