

Instrument setting out terms of easements or Profits a Prendre intended to be created or released and of Restrictions or Positive Covenants intended to be created pursuant to section 88B of the conveyancing act, 1919 .

DP

Sheet 1 of 13 Sheets

Plan of Subdivision of Lot 50 in DP

Being a Subdivision of Lot 8 in DP857982

Covered by Council Certificate

No.:

Dated:

Full name & address of the owners of the land

**REGISTERED OWNERS DETAILS
ADDRESS OF OWNER**

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit a 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 2.0 Wide	5026 5025 5045 5044 5043 5042 5041 5040 5039 5038 5035 5047 5048 5049 5068 5067 5066 5065 5064 5063 5062 5060 5087 5086 5085	5027 5026 & 5027 5025 to 5027 Incl. 5045 5044 & 5045 5043 to 5045 Incl. 5042 to 5045 Incl. 5041 to 5045 Incl. 5040 to 5045 Incl. 5039 to 5045 Incl. 5038 to 5045 Incl. 5071 5048 & 5070 5048, 5047 & 5070 5069 5068 & 5069 5067 to 5069 Incl. 5066 to 5069 Incl. 5065 to 5069 Incl. 5064 to 5069 Incl. 5063 to 5069 Incl. 5062 to 5069 Incl. Part Lot 51 in DP Part Lot 51 in DP Part Lot 51 in DP

Approved by Penrith City Council

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Authorised Officer

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Registered Proprietor

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Sheet **2** of **13** Sheets

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1 Continued	Easement to Drain Water 2.0 Wide	5059 5058 5091 5092	5062 to 5069 Incl. 5062 to 5069 Incl. 5090 5090 & 5091
2	Easement for retaining wall support 0.5 wide	5001 5002 5003 5004 5005 5006 5007 5008 5009 5010 5011 5012 5015 5018 5021 5023 5025 5028 5029 5030 5031 5032 5033 5034 5035 5036 5039 5042 5045 5050 5051 5052 5053 5054 5055 5056 5057 5058	5024 5001 & 5023 5022 5003 & 5021 5020 5019 5006 & 5018 5017 5016 5009 & 5015 5014 5013 5016 5019 5022 5024 5046 5026,5027 & 5045 5044 5043 5030 & 5042 5041 5040 5033 & 5039 5038 5037 5040 5043 5025 & 5046 5048, 5049 & 5069 5068 5067 5066 5065 5064 5063 5062 5057 & 5059

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Sheet **3** of **13** Sheets

Plan of Subdivision of Lot 50 in DP

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2 Continued	Easement for Retaining wall support 0.5 wide	5059	5057 & 5060
		5060	5062
		5061	5062
		5071	Pt Lot 51 in DP
		5072	Pt Lot 51 in DP
		5073	Pt Lot 51 in DP
		5074	Pt Lot 51 in DP
		5075	Pt Lot 51 in DP
		5076	Pt Lot 51 in DP
		5077	Pt Lot 51 in DP
		5078	Pt Lot 51 in DP
		5079	Pt Lot 51 in DP
		5080	Pt Lot 51 in DP
		5081	Pt Lot 51 in DP
		5082	Pt Lot 51 in DP
		5083	Pt Lot 51 in DP
		5084	Pt Lot 51 in DP
		5085	Pt Lot 51 in DP
		5086	Pt Lot 51 in DP
		5087	Pt Lot 51 in DP
		5088	Pt Lot 51 in DP
		5093	5091 & 5092
		5096	5095
		5100	5099
		5103	5102
		5104	5102
5105	5102 & 5107		
5106	5107		
5107	5102		
5108	5101		
5109	5100 & 5110		
5110	5099		
5111	5098		
5112	5097		
5113	5096 & 5114		
5114	5095		
5115	5094		
5116	5089, 5090 & 5093		
3	Easement for Access & maintenance 0.9 wide	5095	5094
		5098	5097
		5111	5112
		5114	5115

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Sheet **4** of **13** Sheets

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4	Easement for Pad mount substation 5.5 wide	5012 5089	Epsilon Distribution Ministerial Holding Corporation
5	Restriction on the use of land (fire rating of buildings)	5012 5013 5089 5116	Epsilon Distribution Ministerial Holding Corporation
6	Restriction on the use of land (swimming pools)	5012 5013 5089 5116	Epsilon Distribution Ministerial Holding Corporation
7	Restriction on the use of Land	Lots 5001 to 5116	Penrith City Council
8	Positive Covenant (noise report)	5001 to 5003 5022 to 5027 5046 to 5049 5070 to 5074	Penrith City Council
9	Restriction on the use of Land (fencing)	5001 5024 5071 5088 5089 5106	Penrith City Council

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Sheet **5** of **13** Sheets

Plan of Subdivision of Lot 50 in DP
Being a Subdivision of Lot 8 in DP857982

Covered by Council Certificate

No.:

Dated:

Part 2 (Terms)

Terms of Easement for retaining wall support 0.5 wide numbered 2 in the plan

1.1 The owner of the lot burdened must not:

- (a) interfere with the retaining wall or the support it offers, or
- (b) use the site of this easement, or any other part of the lot burdened, or any other land, in a way which may detract from the stability of or the support provided by the retaining wall.

1.2 If the owner of the lot burdened does or allows anything to be done which damages the retaining wall or impairs its effectiveness or fails to do something which results in damage to the retaining wall or the impairment of its effectiveness, the owner of the lot benefited may serve a notice on the owner of the lot burdened requiring the damage to be repaired or the impairment removed within 14 days.

1.3 If the owner of the lot burdened does not comply with the notice set out in clause 1.2 within 14 days, the owner of the lot benefited may:

- (a) enter the lot burdened and repair the damage or remove the impairment, and
- (b) recover its reasonable costs from the owner of the lot burdened.

1.4 In exercising those powers, the owner of the lot benefited must:

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

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Sheet **6** of **13** Sheets

Plan of Subdivision of Lot 50 in DP

Being a Subdivision of Lot 8 in DP857982

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No.:

Dated:

Part 2 (Terms Continued)

Terms of Easement for access and maintenance 0.9 wide numbered 3 in the plan

1.1 The owner of the lot benefited may:

- (a) use the easement site to assist in undertaking any works on the lot benefited including construction, repair, painting, landscaping and maintenance;
- (b) enter onto the lot burdened to inspect and survey any structure on the lot benefited; and
- (c) do anything reasonably necessary for those purposes, including:
 - entering the lot burdened;
 - taking anything on to the lot burdened; and
 - carrying out works within the site of this easement.

1.2 In exercising those powers, the owner of the lot benefited must:

- (a) ensure all work is done properly;
- (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 improvements on it;
- (d) restore the lot burdened as nearly as practicable to its former condition; and
- (e) make good any collateral damage.

1.3 The owner of the lot burdened must not :-

- (a) allow any building or other structure to be erected or placed on the easement site except an eave or gutter of the main building on the lot burdened or any permanent underground services to the main building
- (b) carry out any excavation or filling greater than 500mm. Any excavation or filling shall be located and retained so as not to impact on any adjoining building, structure or property

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Sheet **7** of **13** Sheets

Plan of Subdivision of Lot 50 in DP

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No.:

Dated:

Part 2 (Terms Continued)

The grant of this easement is made subject to the right of the owner of the lot burdened to carry out repairs and maintenance or improvements to any landscaping within the site of the easement including installing a security gate across the easement site from the building structure on the lot burdened.

Terms of Easement for Padmount substation 5.5 wide numbered 4 in the plan

The terms of the Easement for Padmount Substation set out in Memorandum Number AK104621. Subject to changing "Endeavour Energy" to "Epsilon Distribution Ministerial Holding Corporation"

Name of person empowered to release, vary or modify Easement

Epsilon Distribution Ministerial Holding Corporation

Terms of Restriction on the Use of Land numbered 5 in the plan. (fire rating)

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.

Approved by Penrith City Council

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Authorised Officer

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Sheet **8** of **13** Sheets

Plan of Subdivision of Lot 50 in DP

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Dated:

Part 2 (Terms Continued)

- 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 prescribed authority with an engineer's certificate to this effect.
- 3.0 The fire ratings mentioned in clause 2 must be achieved without the use of fire fighting systems such as automatic sprinklers.
- 4.0 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System
 - 4.1 Notwithstanding any other provision in this Restriction on the Use of Land, the owner acknowledges and agrees that any lessee of Epsilon Distribution Ministerial Holding Corporation's distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation's distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation as if that lessee or nominee were Epsilon Distribution Ministerial Holding Corporation, but only for so long as the lessee leases Epsilon Distribution Ministerial Holding Corporation's distribution system from Epsilon Distribution Ministerial Holding Corporation.
 - 4.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Epsilon Distribution Ministerial Holding Corporation.

Name of person empowered to release, vary or modify Restriction

Epsilon Distribution Ministerial Holding Corporation

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Sheet **9** of **13** Sheets

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No.:

Dated:

Part 2 (Terms Continued)

Terms of Restriction on the Use of Land numbered 6 in the plan. (swimming pool)

1.0 Definitions

1.1 **erect** includes construct, install, build and maintain.

1.2 **Owner** means the registered proprietor of the lot or Torrens title land that is affected by this restriction and its successors (including those claiming under or through the registered proprietor)

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

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

3.0 Electricity network assets (Authorises Transactions) Act 2015

3.1 Notwithstanding any other provision in this restriction, the owner acknowledged and agrees that any lessee of the prescribed authority's distribution system, and any nominee of such lessee (which may include a sublessee of the prescribed authority's distribution system from that lease), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of the prescribed authority as if that lessee or nominee were the prescribed authority, but only for so long as the lessee leases the prescribed authority's distribution system from the prescribed authority.

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 the prescribed authority.

Name of person empowered to release, vary or modify Restriction

Epsilon Distribution Ministerial Holding Corporation

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Sheet **10** of **13** Sheets

Plan of Subdivision of Lot 50 in DP

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No.:

Dated:

Part 2 (Terms Continued)

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

No additional retaining walls are permitted within 6 meters of the rear boundary, other than the walls constructed as part of the original subdivision.

Name of person empowered to release, vary or modify Restriction

Penrith City Council

Terms of Positive Covenant numbered 8 in the plan (noise report)

No building(s) shall be constructed or permitted to remain on the lot(s) hereby burdened unless such building(s) have been designed and constructed in accordance with the acoustic report "*Noise Impact assessment proposed subdivision Orchard Hills North -stage 5 & 6(report Number 230424R9 Revision 0)*" prepared by Rodney Stevens Acoustics dated 9 July 2024.

Name of person empowered to release, vary or modify Restriction

Penrith City Council

Terms of Restriction on the use of land numbered 9 in the plan.

Side boundary fencing addressing Castle Road and Lot 5117 shall be of high quality Material and finish, metal sheet fencing is no permitted. The fencing shall provide filtered viewing to ensure privacy whilst avoiding solid construction. The Height of the fencing shall be reduced wherever possible to avoid retaining wall and fencing cumulative visual impact, but maintain privacy.

Name of person empowered to release, vary or modify Restriction

Penrith City Council

Approved by Penrith City Council

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Authorised Officer

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Sheet **11** of **13** Sheets

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Being a Subdivision of Lot 8 in DP857982

Covered by Council Certificate

No.:

Dated:

Signed on behalf of Penrith City Council by its Authorised Officer in accordance with S378 Local Government Act 1993

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

Authorised Officer

Witnessed by

Name: _____

Name: _____

Position: _____

c/- Penrith City Council
Po Box 60
Penrith NSW 2751

Approved by Penrith City Council

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Authorised Officer

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Registered Proprietor

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Sheet **12** of **13** Sheets

Plan of Subdivision of Lot 50 in DP
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Covered by Council Certificate

No.:

Dated:

This sheet is for Endeavour Energy to endorse

Approved by Penrith City Council

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Authorised Officer

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Sheet **13** of **13** Sheets

Plan of Subdivision of Lot 50 in DP
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Covered by Council Certificate

No.:

Dated:

This sheet is for registered proprietors endorsement

Approved by Penrith City Council

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Authorised Officer

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Registered Proprietor