

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 16 Sheets

Plan of Subdivision of Lots 71 & 73 in
DP1302829 and Lots 6,8 & 9
In DP1344

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 1.5 Wide	3010 3011 3031 3061 3062 3063 3065 3066 3067 3068 3069 3070 3071 3074 3075 3076 3077 3078 3079 3080 3081 3082 3083	3011 & 3012 3012 3032 3062-3064 Inclusive 3063 & 3064 3064 3066-3072 Inclusive 3067-3072 Inclusive 3068-3072 Inclusive 3069-3072 Inclusive 3070-3072 Inclusive 3071 & 3072 3072 3073 3073 & 3074 3073-3075 Inclusive 3073-3076 Inclusive 3073-3077 Inclusive 3073-3078 Inclusive 3073-3079 Inclusive 3073-3080 Inclusive 3073-3081 Inclusive 3073-3082 Inclusive

Approved by Penrith City Council

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Authorised Officer

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Registered Proprietor

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1 Continued	Easement to Drain Water 1.5 Wide	3093 3116 3115 3129 3128 3145 3144	Lot 72 in DP1302829 3117 3116 & 3117 3130 3129 & 3130 3146 3145 & 3146
2	Easement to Drain Water 2 Wide	3022 3023 3028 3029 3030 3034 3035 3036 3040 3041 3042 3043 3044 3045 3046 3047 3048 3049 3050 3103 3104 3105 3106 3119 3131 3132 3147 3148 3149 3150	3023 & 3033-3036 Inclusive 3033-3036 Inclusive 3029-3032 3030-3032 Inclusive 3031 & 3032 3033 3033 & 3034 3033-3035 Inclusive 3039 3039 & 3040 3039-3041 Inclusive 3039-3042 Inclusive 3039-3043 Inclusive 3039-3044 Inclusive 3039-3045 Inclusive 3039-3046 Inclusive 3039-3047 Inclusive 3039-3048 Inclusive 3039-3049 Inclusive 3118 3118 & 3103 3118, 3103 & 3104 3118 & 3103-3105 Incl 3131-3133 Inclusive 3132 & 3133 3133 3135 & 3148-3150 Incl. 3135,3149 & 3150 3135 & 3150 3135

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3	Easement to Drain Water 3 Wide	3110 3111 3112 3113 3114 3123 3124 3125 3126 3127 3139 3140 3141 3142 3143	Penrith City Council & 3115-3117 Inclusive Penrith City Council & 3115-3117 Inclusive Penrith City Council & 3115-3117 Inclusive Penrith City Council Penrith City Council Penrith City Council & 3128-3130 Inclusive Penrith City Council & 3128-3130 Inclusive Penrith City Council & 3128-3130 Inclusive Penrith City Council Penrith City Council Penrith City Council & 3144-3146 Inclusive Penrith City Council & 3144-3146 Inclusive Penrith City Council & 3144-3146 Inclusive Penrith City Council Penrith City Council
4	Easement for retaining wall support 0.5 wide	3022 3024 3025 3026 3027 3029 3049 3050 3051 3052 3053 3054 3055 3056 3057	3023 3022,3023,3035 & 3036 3034 & 3035 3033 & 3034 3033, 3028-3030 Incl 3030 3048 3049 3048,3049 & 3052 3047 & 3048 3046 & 3047 3045 & 3046 3044 & 3045 3043 & 3044 3042 & 3043

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4 Continued	Easement for retaining wall support 0.5 wide	3058	3041 & 3042
		3059	3040 & 3041
		3060	3039 & 3040
		3085	3154
		3086	3154 & 3155
		3087	3155
		3088	3155
		3089	3155
		3090	3155
		3091	3155
		3092	3155
		3093	Lot 72 in DP1302829
		3098	3093
		3099	3093
		3100	3099 & 3101
		3101	3093 & 3102
		3102	Lot 72 in DP1302829
		3107	3104-3106 Inclusive
		3108	3107
		3109	3108
		3110	3109
		3111	3109
		3112	3109 & 3115
		3113	3115
		3114	3115
		3115	3116
		3116	3117
		3117	3103, 3104 & 3118
		3120	3119, 3131 & 3132
		3121	3120
		3122	3121
		3123	3122
		3124	3122
		3125	3122 & 3128
3126	3128		
3127	3128		
3128	3129		
3129	3130		
3130	3132-3134 Inclusive		
3136	3135, 3149 & 3150		
3137	3136		
3138	3137		

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Sheet **5** of **16** Sheets

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Dated:

4 Continued	Easement for retaining wall support 0.5 wide	3139 3140 3141 3142 3143 3144 3145 3146 3151 3152 3153 3154	3138 3138 3138 & 3144 3144 3144 3145 3146 3147-3149 Inclusive 3155 3155 3155 3153 & 3155
5	Easement for Access & maintenance 0.9 wide	3001 3002 3003 3007 3008 3012 3014 3015 3016 3018 3019 3020 3023 3026 3027 3028 3030 3036 3041 3042 3044 3045 3046 3048 3053 3054 3055	3002 3003 3004 3008 3009 3011 3013 3014 3015 3017 3018 3019 3036 3025 3026 3029 3031 3037 3040 3041 3043 3044 3045 3047 3054 3055 3056

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Sheet **6** of **16** Sheets

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Dated:

5 Continued	Easement for Access & maintenance 0.9 wide	3059	3060
		3068	3069
		3069	3070
		3070	3071
		3075	3074
		3076	3075
		3077	3076
		3079	3078
		3080	3079
		3082	3081
		3083	3082
		3086	3087
		3087	3088
		3088	3089
		3090	3091
		3095	3094
		3096	3095
		3104	3103
		3105	3104
		3106	3105
		3110	3111
		3111	3112
		3112	3113
		3119	3131
		3131	3132
		3132	3133
3123	3124		
3124	3125		
3125	3126		
3139	3140		
3140	3141		
3141	3142		
3147	3148		
3148	3149		
3149	3150		
6	Easement for Padmount substation 2.75 wide	3155 3156	Epsilon Distribution Ministerial Holding Corporation
7	Restriction on the use of land (fire rating of buildings)	3155 3156	Epsilon Distribution Ministerial Holding Corporation

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Sheet 7 of 16 Sheets

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8	Restriction on the use of land (swimming pools)	3155	Epsilon Distribution Ministerial Holding Corporation
9	Restriction on the use of Land	3001-3009 3012-3019 3023-3027 3029 3030 3033-3036 3039-3060 3065-3092 3098-3100 3103-3106 3110-3114 3119 3123-3127 3131-3135 3139-3143 3147-3154	Penrith City Council
10	Right of carriageway variable width	3157	Penrith City Council
11	Easement to Drain water (whole lot)	3084 3156 3157	Penrith City Council
12	Positive Covenant (noise report)	3081-3088 Inclusive 3135-3154 Inclusive	Penrith City Council
13	Restriction on the Use of Land (no development)	3157	Penrith City Council
14	Restriction on the Use of Land (fencing)	3021, 3143,3147 3084 & 3085	Penrith City Council

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Sheet **8** of **16** Sheets

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No.:

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Part 1A (Release)

1	Right of Carriageway created by DP1302829	Lot 8 In DP1344 Lot 73 in DP1302829	Penrith City Council
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Part 2 (Terms)

Terms of Easement for retaining wall support 0.5 wide numbered 4 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.

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Sheet **9** of **16** Sheets

Plan of Subdivision of Lots 71 & 73 in
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No.:

Dated:

Part 2 (Terms Continued)

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.

Terms of Easement for access and maintenance 0.9 wide numbered 5 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.

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Part 2 (Terms Continued)

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

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 6 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 7 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.

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Part 2 (Terms Continued)

- 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.
- 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

Approved by Penrith City Council

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Sheet **12** of **16** Sheets

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Dated:

Part 2 (Terms Continued)

Terms of Restriction on the Use of Land numbered 8 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

Approved by Penrith City Council

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Terms of Restriction on the Use of Land numbered 9 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 12 in the plan (noise report)

The owner of the burdened lot must construct a design and construct any dwelling on the burdened lot in accordance with the acoustic report 'Noise Impact Assessment Proposed Subdivision Orchard Hills North - Stage 2 (Report Number 230424R3" as prepared by Rodney Stevens Acoustic dated 6 December 2023.

Name of person empowered to release, vary or modify Restriction

Penrith City Council

Terms of Restriction on the use of land numbered 13 in the plan (no development)

No development or building shall be allowed or be permitted to remain on the Lot hereby burdened unless satisfactory arrangements have been made with Penrith City Council for services (water, sewer, electricity and telephone), any outstanding contributions or consolidation with adjoining lots.

The terms of this restriction on the use of land will cease to apply and the obligations will be released by the Penrith City Council on the date that all satisfactory arrangements have been made with Penrith City council for services (water, sewer, electricity and telephone), any outstanding contributions or consolidation with adjoining lot."

Name of person empowered to release, vary or modify Restriction

Penrith City Council

Approved by Penrith City Council

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Terms of Restriction on the use of land numbered 14 in the plan (Fencing)

The owner of the lot must not install any Side boundary fencing addressing Caddens and Kingswood Roads unless

- It is of high quality Material and finish and
- Metal sheet fencing is not permitted and
- The fencing must provide filtered viewing to ensure privacy whilst avoiding solid construction and
- 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

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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Sheet **15** of **16** Sheets

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This sheet is for Endeavour Energy to endorse

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Sheet **16** of **16** Sheets

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This sheet is for registered proprietors endorsement

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Authorised Officer

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Registered Proprietor