

**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 OF THE CONVEYANCING
ACT, 1919.**

Lengths are in metres

(Sheet 1 of 15 Sheets)

Plan: DP

Plan of Subdivision of Lots 1122 in DP
covered by Subdivision Certificate No.
Dated:

Full Name and Address of
The Owner of the land:

Mirvac Residential Sub Co Pty Ltd
ACN 672 683 797
Level 28, 200 George Street
Sydney NSW 2000

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 2 Wide (A)	1138 1159 1160 1161 1162 1187 1188 1189 1190 1193 1194 1195 1196 1204 1205 1206 1208 1209 1210 1211 1214 1215	1144 1160 to 1163 incl. 1161 to 1163 incl. 1162 and 1163 1163 1188 to 1191 incl. 1189 to 1191 incl. 1190 and 1191 1191 1192 1192 and 1193 1192 to 1194 incl. 1192 to 1195 incl. 1203 1203 and 1204 1203 to 1205 incl. and 1207 1203 to 1207 incl. 1203 to 1208 incl. 1203 to 1209 incl. 1203 to 1210 incl. 1203 to 1211 incl. 1203 to 1211 incl. and 1214

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Penrith City Council
Authorised Officer

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(Sheet 2 of 15 Sheets)

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Plan of Subdivision of Lots 1122 in DP
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Dated:

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	Easement to Drain Water 2 Wide (A)	1216 Pt.1217	1203 to 1211 incl, 1214 and 1215 1192 to 1196 incl.
2	Easement for Access, Maintenance and Construction 0.9 Wide (B)	1124 1130 1131 1132 1134 1135 1136 1138 1139 1146 1147 1148 1154 1155 1159 1161 1164 1166 1167 1168 1169 1170 1171 1172	1125 1131 1132 1133 1135 1136 1137 1139 1140 1145 1146 1147 1153 1154 1160 1162 1163 1165 1166 1167 1168 1171 1172 1173

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(Sheet 3 of 15 Sheets)

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Plan of Subdivision of Lots 1122 in DP
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Dated:

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
	Easement for Access, Maintenance and Construction 0.9 Wide (B)	1173 1174 1183 1184 1187 1188 1189 1193 1194 1196 1198 1199 1200 1202 1205 1210 1212 1213 1214 1215 1216 Pt 1217 designated (B2) Part 1220 designated (B1) Pt 1223 designated (B3)	1174 1175 1184 1185 1188 1189 1190 1192 1193 1195 1199 1200 1201 1203 1206 1209 1211 1211 1213 1214 1215 1183 1124 1148

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(Sheet 4 of 15 Sheets)

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Plan of Subdivision of Lots 1122 in DP
covered by Subdivision Certificate No.
Dated:

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
3	Easement for Padmount Substation 2.75 Wide (E)	1152, 1202 and 1123/DP.....	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)
4	Restriction on the Use of Land	Part Lots 1151, 1152, 1201, 1202 and 1123/DP.... designated (F) on the plan	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)
5	Restriction on the Use of Land	Part Lots 1151, 1152, 1201 and 1202 designated (G) on the plan	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)
6	Restriction on the Use of Land	1124 to 1216 inclusive	Every other lot except 1218, 1219, 1221 and 1222
7	Restriction on the Use of Land	1144	Penrith City Council
8	Restriction on the Use of Land	1217 to 1220 inclusive	Penrith City Council

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Penrith City Council
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Dated:

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9	Restriction on the Use of Land	1217 to 1220 inclusive, 1222 and 1223	Penrith City Council
10	Positive Covenant	1124 to 1216 inclusive	Penrith City Council
11	Restriction on the Use of Land	1221, 1222 and 1223	Penrith City Council

PART 2 (Terms)

1. Terms of Easement to Drain Water referred to and numbered one in the plan.

An Easement to drain water in terms set out in Part 3 of Schedule 8 of the Conveyancing Act, 1919 (as amended) is created.

2. Terms of Easement for Access, Maintenance and Construction referred to and numbered two in the plan.

1. The owner of the lot benefited may:

- (a) at the expiration of at least one week's notice served on the owner or occupier of a lot burdened, use the lot burdened for the purpose of carrying out necessary

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Authorised Officer

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work on, or on any structure on, the lot benefited which cannot otherwise reasonably be carried out, and

- (b) do anything reasonably necessary for that purpose, including:
 - (i) entering the lot burdened, and
 - (ii) taking anything on to the lot burdened.

2. In exercising those powers, 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, 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.

3. The grant of this easement is made subject to the existence of, and the right of the owner of the lot burdened to construct, eaves and guttering from the structure on the lot burdened, that overhang the site of the easement.

4. 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 at the entrance to the site of the easement from the front of the building structure on the lot burdened.

3. Terms of Easement for Padmount Substation referred to and numbered three in the plan.

The terms set out in Section 1 of Memorandum AR578978 are incorporated into this document.

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Authorised Officer

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Plan: DP

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4. Terms of Restriction on the Use of Land referred to and numbered four in the plan.

The terms set out in Section 8 of Memorandum AR578978 are incorporated into this document.

5. Terms of Restriction on the Use of Land referred to and numbered five in the plan.

The terms set out in Section 9 of Memorandum AR578978 are incorporated into this document.

6. Terms of Restriction on the Use of Land referred to and numbered six in the plan.

In this Restriction on the Use of Land:

- 1) No fence shall be erected on any lot burdened to divide it from the adjoining land owned by **Mirvac Residential Sub Co Pty Ltd** without its consent in writing but such consent shall not be withheld if such fence is erected without expense to **Mirvac Residential Sub Co Pty Ltd**. The restriction under subsection 1) shall remain in force only during such time as **Mirvac Residential Sub Co Pty Ltd** is the Registered Proprietor of the adjoining land.
- 2) No air-conditioning unit is to be installed:
 - a) in any front porch/ balcony of a lot burdened; or
 - b) in any area on or in a lot burdened where the air conditioning unit is visible from ground level outside the lot burdened.
- 3) No garbage containers and recyclable materials are to be stored on or in any lot burdened unless secured or stored so that they are hidden from view from outside the lot burdened and do not omit odours.
- 4) 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.
- 5) No boats, trailers, caravans or any other towable item may be parked on or in a lot burdened if the boat, trailer, caravan or any other towable item is visible from ground

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Plan: DP

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Dated:

level outside the lot burdened.

- 6) No retaining wall that is visible from ground level outside a lot burdened shall be constructed or permitted to remain constructed unless the retaining wall is constructed of a masonry material in accordance with the Design Guidelines requirements for masonry walls.
- 7) No building shall be constructed on the lot burdened, and the Owner of the lot burdened must not make application to Penrith City Council for a development consent to approve a building to be constructed on the lot burdened, unless the building and ancillary landscaping and fencing complies with:
 - a) the Design Guidelines; and
 - b) any other conditions required by any relevant Authority.
- 8) 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 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) 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
 - e) erect or place any external floodlights or spotlights to any lights illuminating any pool or other similar enclosure.
- 9) These restrictions shall expire and have no further force or effect on the date being the first to occur of:
 - a) 15 December 2033; and
 - b) three years after the date an occupancy certificate is issued to the registered proprietor of a dwelling approved by the Review Panel on the last remaining lot in the Development such that there are no further vacant lots in the Development (excluding any lots upon which no dwelling is permitted to be erected).
- 10) In this Restriction:
 - a) "Mirvac" means **Mirvac Residential Sub Co Pty Ltd (ACN 672 683 797)** and its successors, nominees or assigns other than purchases on sale.
 - b) Authority means a government or governmental, administrative, fiscal or judicial body,

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Authorised Officer

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Plan: DP

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department, commission, authority, tribunal, agency or entity and includes Penrith City Council (or its successor).

- c) Benefited Authority means the Authority having the benefit of an easement under this Instrument.
- d) Design Guidelines means the design guidelines for the Everdene Development at Mulgoa, Version 1, Dated September 2025 (or as varied from time to time) specified by the Review Panel which regulate all building and ancillary landscaping work as applicable to the Development.
- e) Development means the development known as "Everdene" comprised in Lots 27, 28, 29 and 30 in Deposited Plan 244610, Lots 1, 2, 3, 4 and 5 in Deposited Plan 29081, Lots 2 and 3 in Deposited Plan 1240361 or any future lots created from the subdivision of these parcels.
- f) Owner means a person who is entitled to an estate or interest in possession in a lot.
- g) Review Panel means the Mirvac Development Review Panel.

7. Terms of Restriction on the Use of Land referred to and numbered seven in the plan.

- 1) No fencing shall be erected along the frontage to the boulevard.
- 2) No dwelling shall be erected on the lot burdened unless it is designed so as to be oriented and present to the Entry Boulevard and provides pedestrian access.

8. Terms of Restriction on the Use of Land referred to and numbered eight in the plan.

No development or building shall be allowed or permitted on the lot unless satisfactory arrangements have been made with Penrith City Council.

9. Terms of Restriction on the Use of Land referred to and numbered nine in the plan.

No development or building shall be allowed or permitted to remain on the named lot 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.

10. Terms of Positive Covenant referred to and numbered ten in the plan.

The Proprietor of the land hereby burdened shall at all times in respect of the land hereby burdened which contains an inner protection area (IPA):

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- a) Maintain the inner protection area (IPA) as outlined within Section 4.1.3 and appendix 5 of 'Planning for Bush Fire Protection 2019' and the NSW Rural Fire Services document 'Standards for Asset Protection Zones'.
- b) Comply with the terms of any written notice issued by the Council in respect of the requirements of this Positive Covenant within the time stated in the notice;
- c) To permit the Council to enter upon the burdened lot or any part of it with all necessary materials and equipment at all reasonable times and on a reasonable notice (but at any time and without notice in the case of an emergency):
 - i) to view the state of repair of the inner protection area (IPA);
 - ii) to ascertain whether or not there has been any breach of the terms of this Positive Covenant;
 - iii) to execute works on the burdened lot for compliance with the requirements of this Positive Covenant;
- d) Indemnify and keep indemnified the Council from and against all claims, demands, actions, suits, causes of action, sum or sums of money, compensation, damages, costs and expenses which the Council or any other person may suffer as a result of any malfunction or non-operation of the system and any failure of the Proprietor to comply with the terms of this Positive Covenant.

11. Terms of Restriction on the Use of Land referred to and numbered eleven in the plan.

The owner of the lot burdened shall not use or permit the use of the land in a manner inconsistent with its designation as a temporary Asset Protection Zone (**APZ**) and shall maintain the land in accordance with the requirements of the Rural Fire Service and/or Penrith City Council for the duration of the temporary APZ designation.

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**Name of person or authority whose consent is required to release, vary or modify the
Easement numbered 1 and 2 in the plan.**

Penrith City Council

**Name of person or authority empowered to release, vary or modify the Easement and
Restriction on the Use of Land numbered 3, 4 and 5 in the plan.**

Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)

**Name of person or authority whose consent is required to release, vary or modify the
Restriction on the Use of Land numbered 6 in the plan.**

Mirvac Residential Sub Co Pty Ltd (ACN 672 683 797) and/or its successors, nominees and/or
assigns, other than purchases on sales, for such period as it is the Owner of land in the plan
and thereafter the Owners of the lots benefited PROVIDED THAT any release, variation or
modification of these restrictions shall be made and done in all respects at the cost and
expense of the person or persons requesting the release, variation or modification.

**Name of person or authority empowered to release, vary or modify the Restriction on the Use
of Land and Positive Covenant numbered 7, 8, 9, 10 and 11 in the plan.**

Penrith City Council

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(Sheet 12 of 15 Sheets)

Plan: DP

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Dated:

I certify that I am an eligible witness and
that the attorneys signed this dealing in
my presence.

Certified correct for the purposes of the
Real Property Act 1900 by the registered
proprietor's attorneys who signed this
dealing pursuant to the power of attorney
specified.

Signature of witness

Electronic signature of me, affixed by
me, or at my direction on

Signature of attorney

Electronic signature of me, affixed by
me, or at my direction on

Name of witness (print)

Name of attorney (print)

Address of witness

I certify that I am an eligible witness and that this
document was signed in counterpart and witnessed over
audio visual link in accordance with s14G of the
Electronic Transactions Act 2000 (NSW)

Signature of attorney

Electronic signature of me, affixed by
me, or at my direction on

Name of attorney (print)

Mirvac Residential Sub Co Pty Ltd ACN 672
683 797

Signing on behalf of

Power of attorney

- Book _____

- No _____

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Penrith City Council
Authorised Officer

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Dated:

Executed on behalf of **Penrith City
Council** by its authorised delegate
pursuant to s.378 *Local Government
Act 1993* No 30

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

.....
Signature of delegate

.....
Signature of witness

*Electronic signature of me,
affixed by me, or at my direction on*

*Electronic signature of me, affixed
by me, or at my direction on*

.....
Name of delegate

.....
Name of witness

.....
Address of delegate

.....
Address of witness

*I certify that I am an eligible witness and that this
document was signed in counterpart and witnessed
over audio visual link in accordance with s14G of the
Electronic Transactions Act 2000 (NSW).*

.....
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I certify that I am an eligible witness and
that the attorneys signed this dealing in
my presence.

Certified correct for the purposes of the
Real Property Act 1900 by the registered
proprietor's attorneys who signed this
dealing pursuant to the power of attorney
specified.

Signature of witness

Signature of attorney

Electronic signature of me, affixed by
me, or at my direction on

Electronic signature of me, affixed by
me, or at my direction on

Name of witness (print)

Name of attorney (print)

Address of witness

Signature of attorney

I certify that I am an eligible witness and that this
document was signed in counterpart and witnessed over
audio visual link in accordance with s14G of the
Electronic Transactions Act 2000 (NSW)

Electronic signature of me, affixed by
me, or at my direction on

Name of attorney (print)

Mirvac Mulgoa Pty Ltd ACN 682 963 542

Signing on behalf of

Power of attorney

- Book _____

- No _____

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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:

Electronic signature of me,

Electronic signature of me,

.....

.....

affixed by me, or at my direction,

affixed by me, or at my direction,

on.....

on.....

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:
