

**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 18 Sheets)

Plan: DP

Plan of Subdivision of Lots 27, 28, 29, & 30
DP244610, Lots 1, 2, 3, 4 & 5 DP29081 and
Lots 2 & 3 DP1240361
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, 2.5, 3 Wide and Variable Width (A)	1009 1010 1011 1012 1013 1014 1017 1021 1022 1024 1025 1027 1028 1029 1030 1031 1034 1035	1008 1008 and 1009 1008 to 1010 incl. 1008 to 1011 incl. 1008 to 1012 incl. 1008 to 1013 incl. 1024 to 1031 incl. 1022 and 1023 1023 1025 and 1026 1026 1024 to 1026 incl. 1024 to 1027 incl. 1024 to 1028 incl. 1024 to 1029 incl. 1024 to 1030 incl. 1035 and 1036 1036

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Penrith City Council
Authorised Officer

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(Sheet 2 of 18 Sheets)

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Plan of Subdivision of Lots 27, 28, 29, & 30
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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
		1045	1046 and 1047
		1046	1047
		1056	1057 and 1058
		1057	1058
		1062	1063 to 1065 incl.
		1063	1064 and 1065
		1064	1065
		1066	1067 to 1074 incl.
		1067	1068 to 1074 incl.
		1068	1069 to 1074 incl.
		1069	1070 to 1074 incl.
		1070	1071 to 1074 incl.
		1071	1072 to 1074 incl.
		1072	1073 and 1074
		1073	1074
		1096	1066 to 1074 incl.
		1103	1104 to 1110 incl.
		1104	1105 to 1110 incl.
		1105	1106 to 1110 incl.
		1106	1107 to 1110 incl.
		1107	1108 to 1110 incl.
		1108	1109 and 1110
		1109	1110
		1111	1112 to 1115 incl. and Pt.1122 designated (A2)
		1112	1113 to 1115 incl. and

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Penrith City Council
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(Sheet 3 of 18 Sheets)

Plan: DP

Plan of Subdivision of Lots 27, 28, 29, & 30
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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
		1113 1114 1115 1117 1119 1120 1121 Pt.1122 designated (A3) Pt. 1122 designated (A4)	Pt.1122 designated (A2) 1114, 1115 and Pt.1122 designated (A2) 1115 and Pt.1122 designated (A2) Pt.1122 designated (A2) 1116 1034 to 1036 incl. 1056 to 1058 incl. Pt. 1122 designated (A1) 1111 to 1115 incl. 1116 and 1117
2	Easement for Access, Maintenance and Construction 0.9 Wide (B)	1002 1003 1015 1016 1018 1019 1021 1022 1024 1025 1028 1029	1003 1004 1033 1015 1019 1020 1022 1023 1025 1026 1027 1028

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Penrith City Council
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(Sheet 4 of 18 Sheets)

Plan: DP

Plan of Subdivision of Lots 27, 28, 29, & 30
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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
		1030 1040 1041 1042 1045 1052 1053 1054 1055 1063 1064 1067 1068 1069 1070 1071 1080 1081 Pt. 1123 designated (B1)	1029 1041 1042 1043 1046 1051 1052 1053 1054 1064 1065 1068 1069 1070 1071 1072 1079 1080 1083
3	Easement for Services Variable Width (C)	1072 1073 1074	1073 and 1074 1072 and 1074 1072 and 1073

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Penrith City Council
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(Sheet 5 of 18 Sheets)

Plan: DP

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 Lots 2 & 3 DP1240361
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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
4	Right of Access Variable Width (D)	1072 1073 1074	1073 and 1074 1072 and 1074 1072 and 1073
5	Easement for Padmount Substation 2.75 Wide (E)	1055, 1122 and 1123	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)
6	Restriction on the Use of Land (F)	Part Lots 1040, 1055, 1103, 1122 and 1123 designated (F) on the plan	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)
7	Restriction on the Use of Land (G)	Part Lots 1040, 1055, 1103, 1122 and 1123 designated (G) on the plan	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)
8	Restriction on the Use of Land	1001 to 1117 inclusive	Every other lot

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 Penrith City Council
 Authorised Officer

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Lots 2 & 3 DP1240361
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
9	Easement to Drain Water Variable Width (H)	1123	Penrith City Council
10	Restriction on the Use of Land	1119 to 1121 inclusive	Penrith City Council
11	Restriction on the Use of Land	Part Lot 1118 and 1123 designated (Z) on the plan	Penrith City Council
12	Easement to Drain Water 3, 5 and Variable Width (J)	1123	Penrith City Council
13	Right of Access 15.6 Wide (K)	1123	Epsilon Distribution Ministerial Holding Corporation (ABN 59 253 130 878)

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Plan: 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
14	Right of Access 8 Wide (L)	1123	Penrith City Council
15	Easement to Drain Water 8 Wide (M)	1123	Penrith City Council
16	Positive Covenant	1001 to 1117 inclusive	Penrith City Council
17	Restriction on the Use of Land	1118, 1119, 1120, 1121 and 1123	Penrith City Council

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Penrith City Council
Authorised Officer

Plan: **DP**

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Dated:

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 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.

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Penrith City Council
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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 Services referred to and numbered three in the plan.

An Easement for Services in terms set out in Part 11 of Schedule 8 of the Conveyancing Act, 1919 (as amended) is created.

4. Terms of Right of Access referred to and numbered four in the plan.

A Right of Access in terms set out in Part 14 of Schedule 8 of the Conveyancing Act, 1919 (as amended) is created.

5. Terms of Easement for Padmount Substation referred to and numbered five in the plan.

The terms set out in Section 1 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.

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

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

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

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

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Penrith City Council
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Dated:

- 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 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

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Dated:

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, 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.

9. Terms of Easement to Drain Water referred to and numbered nine in the plan.

An Easement to drain water in terms set out in Part 3 of Schedule 4A of the Conveyancing Act, 1919 (as amended) is created.

10. Restriction on the Use of Land referred to and numbered ten in the plan.

The owner of the lot burdened shall not carry out or permit to be carried out any development or building works on the lot unless satisfactory arrangements have been made with Penrith City Council.

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Penrith City Council
Authorised Officer

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11. 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.

12. Terms of Easement to Drain Water referred to and numbered twelve in the plan.

An Easement to drain water in terms set out in Part 3 of Schedule 4A of the Conveyancing Act, 1919 (as amended) is created.

13. Terms of Right of Access referred to and numbered thirteen in the plan.

The terms set out in Section 7 of Memorandum AR578978 are incorporated into this document.

14. Terms of Right of Access referred to and numbered fourteen in the plan.

A Right of Access in terms set out in Part 11 of Schedule 4A of the Conveyancing Act, 1919 (as amended) is created.

15. Terms of Easement to Drain Water referred to and numbered fifteen in the plan.

An Easement to drain water in terms set out in Part 3 of Schedule 4A of the Conveyancing Act, 1919 (as amended) is created.

16. Terms of Positive Covenant referred to and numbered sixteen 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):

- 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

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Penrith City Council
Authorised Officer

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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.

17. Terms of Restriction on the Use of Land referred to and numbered seventeen in the plan.

No development or building shall be allowed or be 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.

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Penrith City Council
Authorised Officer

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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, Right of Access and Restriction on the Use of Land numbered 5, 6, 7 and 13 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 8 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 Easement, Positive Covenant or Restriction on the Use of Land numbered 9, 10, 11, 12, 14, 15, 16 and 17 in the plan.

Penrith City Council

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Penrith City Council
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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

*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 Mulgoa Pty Ltd ACN 682 963 542

Signing on behalf of
Power of attorney

- Book _____

- No _____

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Penrith City Council
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Dated:

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:

Power of attorney:

c/- Endeavour Energy
Level 41, 8 Parramatta Square
10 Darcy Street
Parramatta NSW 2150

EE reference:

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Penrith City Council
Authorised Officer