

**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.**

(Sheet 1 of 8 Sheets)

**Plan:** Plan of Subdivision of Lot 101 in DP1186196  
Covered by Subdivision Certificate No.

**Full name and address of the owner of the land:** Trustees for the Roman Catholic Church  
for the Diocese of Parramatta  
12 Victoria Road  
PARRAMATTA NSW 2150

**PART 1 (Creation)**

| <b>Number of item shown in the intention panel on the Plan</b> | <b>Identity of easement, profit à prendre, restriction on the use of land or positive covenant to be created and referred to in the Plan</b> | <b>Burdened lot(s) or parcel(s)</b>            | <b>Benefited lot(s), road(s), bodies or Prescribed Authorities</b>                          |
|--|--|--|---|
| 1  | Easement To Drain Water 1.5 Wide (C)   | Lot 19<br>Lot 18<br>Lot 17<br>Lot 16<br>Lot 15 | Lots 14-18 Incl. & Lot 20<br>Lots 14-17 Incl.<br>Lots 14-16 Incl.<br>Lots 14 & 15<br>Lot 14 |
| 2  | Restriction on the Use of Land (E)   | Lots 1-8 Inclusive                             | Penrith City Council  |
| 3  | Positive Covenant (F)  | Lots 1-8 Inclusive                             | Penrith City Council  |
| 4  | Restriction on the Use of Land (H)   | Lots 9-19 incl.                                | Penrith City Council  |
| 5  | Restriction on the Use of Land   | Each Lot                                       | Every Other Lot   |
| 6  | Restriction on the Use of Land (K)   | Lot 9  | Endeavour Energy  |
| 7  | Restriction on the Use of Land (L)   | Lot 9  | Endeavour Energy  |
| 8  | Easement for Padmount Substation 2.75 Wide (M)   | Lot 9  | Endeavour Energy  |
| 9  | Easement for Underground Electricity Cables 3 Wide (N)   | Lot 9  | Endeavour Energy  |
| 10   | Easement For Drainage of Water Variable Width (O)  | Lot 22<br>Whole of Lot                         | Penrith City Council  |

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Penrith City Council Authorised Officer

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(Sheet 2 of 8 Sheets)

**Plan:**

Plan of Subdivision of Lot 101 in DP1186196  
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| <b>Number of item shown in the intention panel on the Plan</b> | <b>Identity of easement, profit à prendre, restriction on the use of land or positive covenant to be created and referred to in the Plan</b> | <b>Burdened lot(s) or parcel(s)</b> | <b>Benefited lot(s), road(s), bodies or Prescribed Authorities</b> |
|--|--|-------------------------------------|--|
| 11   | Restriction on the Use of Land (P)   | Lot 22                              | Penrith City Council   |
| 12   | Positive Covenant (Q)  | Lot 22                              | Penrith City Council   |
| 13   | Positive Covenant  | Lots 1-21 inclusive                 | Penrith City Council   |
| 14   | Restriction on the Use of Land   | Lots 1-21 inclusive                 | Penrith City Council   |

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**Plan:** Plan of Subdivision of Lot 101 in DP1186196  
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**PART 2 Terms**

**1. Terms of Easement to Drain Water 1.5 Wide (C) numbered 1 in the abovementioned plan**

An Easement to Drain Water is created in terms as set out in Part 3 Schedule 8 of the Conveyancing Act 1919 as amended.

**2. Terms of Restriction on the Use of Land (E) numbered 2 in the abovementioned plan**

- (i) No native trees or other native vegetation are to be damaged or removed from within the restriction site.
- (ii) No development, erection of structures, or other activities that may damage the vegetation such as grazing, agriculture, use of vehicles or establishment of tracks or paths is to occur within this protected area without the prior consent of Penrith City Council. For any development or activity that will adversely impact on the vegetation in this area, a new flora and fauna assessment will be required to be submitted with the Development Application and suitable offset measure proposed.
- (ii) Definitions:  
"restriction site" means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

**3. Terms of Positive Covenant (F) numbered 3 in the abovementioned plan**

- (i) The proprietor of the lot hereby burdened will maintain the existing native vegetation within the covenant site in accordance with the approved Vegetation Management Plan reference 610.11706 V2.0, prepared by SLR Global Environmental Solutions and dated 16 January 2014, a copy of which is held at the offices of Penrith City Council.
- (ii) Definitions:  
"covenant site" means that part of the lot burdened affected by the covenant on the use of land as shown on the plan.

**4. Terms of Restriction on the Use of Land (H) numbered 4 in the abovementioned plan**

- (i) No excavation or building operations shall commence or be undertaken within the restriction site unless plans documenting the proposed excavation or building work have been approved by Penrith City Council, or a Principal Certifying Authority, and approved by Sydney Water Corporation in accordance with Guidelines for Building Over /Adjacent to Sydney Water Water and Wastewater Assets", or Sydney Water's equivalent document applying at the date of application for such excavation or building.
- (ii) The registered proprietor of the burdened lot must not erect or allow to be erected, a building or any part thereof within the restriction site, unless the footings of the building are designed by a suitably qualified civil or structural engineer.

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**5. Terms of Restriction on the Use of Land numbered 5 in the abovementioned plan**

No fence shall be erected on each lot burdened to divide it from any adjoining land owned by the Trustees of the Roman Catholic Church for the Diocese of Parramatta ("Trustees") without consent of the Trustees or their successors or assigns (other than transfers for value). However, such consent shall not be withheld if such fence is erected without expense to the Trustees or their successors or assigns provided that this restriction shall remain in force only during such time as the Trustees or their successors or assigns are the Registered Proprietor of any land immediately adjoining the lot burdened. This restriction shall be binding on a transferee of the lot burdened and their executors, administrators and assigns only during the ownership of the said adjoining land by the Trustees or their successors or assigns.

**6. Terms of Restriction on the Use of Land (K) numbered 6 in the abovementioned plan**

- (i) No building shall be erected or permitted to remain within the restriction site unless:
  - (a) The external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating; and
  - (b) 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.
- (ii) The fire ratings mentioned above must be achieved without the use of fire fighting systems such as automatic sprinklers.
- (iii) Definitions:
  - (a) "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.
  - (b) "building" means a substantial structure with a roof and walls and includes any projections from the external walls.
  - (c) "erect" includes construct, install, build and maintain.
  - (d) "restriction site" means that part of the lot burdened affected by the restriction on the use of land as shown on the plan

**7. Terms of Restriction on the Use of Land (L) numbered 7 in the abovementioned plan**

- (i) No swimming pool or spa shall be erected or permitted to remain within the restriction site.
- (ii) Definitions:
  - (a) "erect" includes construct, install, build and maintain.
  - (b) "restriction site" means that part of the lot burdened affected by the restriction on the use of land as shown on the plan.

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**8. Terms of Easement for Padmount Substation 2.75 (M) Wide numbered 8 in the abovementioned plan.**

An Easement for Padmount Substation in the terms set out in Memorandum No.9262886 registered at the Land and Property Information Office, subject to changing the reference to Integral Energy Australia in clause 5.1 to Endeavour Energy.

**9. Terms of Easement for Underground Electricity Cables 3 wide (N) numbered 9 in the abovementioned plan**

An Easement for Underground Electricity Cables in the terms set out in Memorandum No. 9262885 registered at the Land and Property Information Office, subject to changing the reference to Integral Energy Australia in clause 5.1 to Endeavour Energy.

**10. Terms of Easement for Drainage of Water Variable (O) numbered 10 in the abovementioned plan**

An Easement to Drain Water in terms as set out in Part 3 Schedule 8 of the Conveyancing Act 1919 as amended.

**11. Terms of Restriction on the Use of Land (P) numbered 11 in the abovementioned plan**

The proprietor of the burdened lot shall not:

- (a) Erect, construct or place any building or other structure
  - (b) Make alterations to the ground surface levels, grates, pipes, pits, kerbs, tanks, gutters WSUD measure or any other structure associated with the water quality control system
- within the land so burdened without the prior written consent of Penrith City Council

**12. Terms of Positive Covenant (Q) numbered 12 in the abovementioned plan**

(a) The proprietor of the burdened lot from time to time shall do all things necessary to maintain, repair and replace the grates, pipes, pits, kerbs, tanks, gutters, WSUD measure or any other structures of and incidental to the water quality control system within the land so burdened to the satisfaction of Penrith City Council and in this regard must also comply with any reasonable written request of the Council within such time period nominated.

(b) Where the proprietor of the burdened lots fails to comply with any written request of the Penrith City Council referred to in (1) above the proprietor shall meet any reasonable cost incurred by the Council in completing the work

(c) Full and free right for the Penrith City Council and every person authorised by it to enter upon the burdened lot in order to inspect, maintain, cleanse, replace, repair any grates, pipes, pits, kerbs, tanks, gutters WSUD measures or any other structure or alter surface levels to ensure the on-site detention system within the land so burdened functions in accordance with the approved Construction Certificate (Council Reference: DA 13/0288.02).

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**13. Terms of Positive Covenant numbered 13 in the abovementioned plan**

- (i) The proprietor of the burdened lot will ensure that any dwelling erected on the subject lot is constructed in a manner which is compliant with AS 2107-2000 (Recommended Design Sound levels and Reverberation Times for Building Interiors), generally in accordance with Table 2 below.

**Table 2 – Traffic Noise Impact Criteria**

| Space/Activity Type    |                       | Recommended Internal Design Noise Level |
|------------------------|-----------------------|---|
| House near major roads | Sleeping Areas        | 35 dB(A)Leq(9hour)                      |
|                        | Other Habitable Areas | 40 dB(A) Leq(15hour)                    |

- (ii) The proprietor of the burdened lot will ensure that any dwelling erected on the subject lot is constructed in a manner which is compliant with the acoustic construction treatments contained in Table 3 of the Acoustic Assessment prepared by Acoustic Logic (ref 20130425.1/2806A/R1/YK, Rev 1 dated 28/6/2013), generally in accordance with Table 3 below.

**Table 3 – Recommended Glazing Constructions**

| Lot                | Façade          | Glazing Requirements | Acoustic Seals |
|--------------------|-----------------|----------------------|----------------|
| 7,8,9              | East            | 6.38mm laminate      | Yes            |
|                    | North and South | 6mm toughened        | Yes            |
| 10 & 11            | North and South | 6mm toughened        | Yes            |
| 19                 | West & North    | 10.38mm laminate     | Yes            |
|                    | South & East    | 6.38mm laminate      | Yes            |
| 20 & 21            | West & North    | 6.38mm laminate      | Yes            |
|                    | South & East    | 6mm toughened        | Yes            |
| 1 & 2              | West & South    | 6.38mm laminate      | Yes            |
|                    | North & East    | 6mm toughened        | Yes            |
| All remaining lots | Any             | 4mm float            | Yes            |

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**14. Terms of Restriction on the Use of Land numbered 14 in the abovementioned plan**

No dwelling shall be constructed on the lot(s) hereby burdened unless the registered proprietor has first constructed or has made provision for the construction of a rainwater tank with a minimum capacity of 6000 litres in accordance with the requirements of Penrith City Council.

**Name of Authority empowered to Release, Vary or Modify the Easements, Restrictions and Positive Covenants numbered 1, 2, 3, 4, 10, 11, 12, 13 and 14 in the abovementioned plan**

Penrith City Council

**Name of Authority Empowered to Release, Vary or Modify the Easements and Restrictions numbered 6, 7, 8 and 9 in the abovementioned plan**

Endeavour Energy

**SIGNED** on behalf of **ENDEAVOUR ENERGY**  
**ABN 59 253 130 878** by its Attorney pursuant  
to Power of Attorney Book 4640 No 572 in the  
presence of:

.....  
Signature of witness

.....  
Signature of Attorney

Name of witness: .....

Name of Attorney: .....

Address of witness: .....

Position of Attorney: .....

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Date of Execution: .....

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**Plan:**

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Covered by Subdivision Certificate No.

**SIGNED by THE TRUSTEES OF ROMAN  
CATHOLIC CHURCH FOR THE DIOCESE OF  
PARRAMATTA**

by its attorney

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pursuant to Power of Attorney registered  
Book ..... No ..... in the presence of:

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Witness signature

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Signature

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Witness name in full

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Full name (print please)

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Position

.....  
Address of witness

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Penrith City Council Authorised Officer