

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 Conveyancing Act 1919.

**Plan:** Plan of Subdivision of Lot 110 DP1135581 covered by Subdivision Certificate N°

**Full name and address of the owner of the land:** **Emu Plains Sporting and Recreation Club Limited**  
1a Leonay Parade  
LEONAY NSW 2750

(Sheet 1 of 11 Sheets)

**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 lots(s), road(s), bodies or Prescribed Authorities:
1.	Easement for Padmount Substation 2.95 wide (E14)	1100	Epsilon Distribution Ministerial Holding Corporation
2.	Easement for Underground Cables 3 wide (E15)	1100	Epsilon Distribution Ministerial Holding Corporation
3.	Restriction on the use of land (R2)	Pt 1100 & Pt 1101	Epsilon Distribution Ministerial Holding Corporation
4.	Restriction on the use of land (R3)	Pt 1100 & Pt 1101	Epsilon Distribution Ministerial Holding Corporation
5.	Restriction on the use of land (R4)	1101	Penrith City Council
6.	Positive Covenant (P1)	1101	Penrith City Council
7.	Restriction on the use of land (R5)	1101	Penrith City Council

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**Signatory**

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**Delegate**  
**Penrith City Council**

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**Part 2 (Terms)**

**1. Terms of Easement for Padmount Substation 2.95 wide (E14) numbered one in the abovementioned plan**

The terms set out in Memorandum N<sup>o</sup> AK104621 registered at Land & Property Information NSW are incorporated into this document subject to changing Endeavour Energy to Epsilon Distribution Ministerial Holding Corporation.

**2. Terms of Easement for Underground Cables 3 wide (E15) numbered two in the abovementioned plan**

The terms set out in Memorandum N<sup>o</sup> AK104616 registered at Land & Property Information NSW are incorporated into this document subject to changing Endeavour Energy to Epsilon Distribution Ministerial Holding Corporation.

**3. Terms of Restriction on the Use of Land (R2) numbered three in the abovementioned plan**

**3.1 Definitions:**

**3.1.1 120/120/120 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;

**3.1.2 building** means a substantial structure with a roof and walls and includes any projections from the external walls;

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Penrith City Council

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**Part 2 (Terms)**

- 3.1.3 **erect** includes construct, install, build and maintain;
- 3.1.4 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown (R2) on the plan.
- 3.2 No building shall be erected or permitted to remain within the restriction site unless:
- 3.2.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating; and
- 3.2.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating; and
- 3.2.3 the owner provides the authority benefited with an engineer's certificate to this effect.
- 3.3 The fire ratings mentioned in clause 3.2 must be achieved without the use of fire fighting systems such as automatic sprinklers.
- 3.4 Lessee of Epsilon Distribution Ministerial Holding Corporation's Distribution System
- 3.4.1 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

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Delegate  
Penrith City Council

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## Part 2 (Terms)

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.

- 3.4.2 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.

### 4. Terms of Restriction on the Use of Land (R3) numbered four in the abovementioned plan

#### 4.1 Definitions:

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

**restriction site** means that part of the lot burdened affected by the restriction on the use of land shown as (R3) on the plan.

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

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**Part 2 (Terms)**

- 4.3 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.
- 4.4 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 Authority empowered to release, vary or modify terms of easements and restrictions numbered one, two, three and four in the abovementioned plan**

Epsilon Distribution Ministerial Holding Corporation.

**5. Terms of Restriction on the Use of Land (R4) numbered five in the abovementioned plan**

The proprietor of the burdened lot shall not:

- (a) erect, construct or place any building or other structure,

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## **Part 2 (Terms)**

- (b) make alterations to the ground surface levels, grates, pipes, pits, kerbs, tanks, gutters, drains, walls, chambers, basins or any other structure associated with the onsite detention system and water sensitive urban design measures

within the land so burdened without the prior written consent of Penrith City Council.

### **6. Terms of Positive Covenant (P1) numbered six in the abovementioned plan**

- 6.1 The registered 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, drains, walls, chambers, basins or any other structures of and incidental to the onsite detention system and water sensitive urban design measures 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.
- 6.2 Where the registered proprietor of the burdened lot fails to comply with any written request of Penrith City Council referred to in 6.1 above, the registered proprietor shall meet any reasonable cost incurred by the Council in completing the work requested.
- 6.3 Full and free right for Penrith City Council and every person authorised by it to enter upon the burdened lot in order to inspect, maintain, cleanse, replace or repair any grates, pipes, pits, kerbs, tanks, gutters, drains, walls, chambers, basins or any other structure or alter surface levels to ensure the onsite detention system and water sensitive urban design measures within the land so burdened functions in accordance with the approved Construction Certificate (Council Reference: DA 14/1614).

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## **Part 2 (Terms)**

### **Name of Authority empowered to release, vary or modify terms of Restriction on the Use of Land and Positive Covenant numbered five and six in the plan**

Penrith City Council.

#### **7. Terms of Restrictions on the use of land (R5) numbered seven in the abovementioned plan**

No person or persons may occupy any accommodation erected upon the lot hereby burdened unless such person or persons are:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability; and
- (c) staff employed to assist in the administration of and provision of services to housing provided under SEPP (Housing for Seniors or People with a Disability)-2004.

The operation of the site shall be in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability)-2004.

In the State Environmental Planning Policy (Housing for Seniors or People with a Disability)-2004 Seniors are defined as any of the following:

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## **Part 2 (Terms)**

- (a) people aged 55 or more years;
- (b) people who are resident at a facility at which residential care (within the meaning of the **Aged Care Act 1997** of the Commonwealth) is provided;
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

**Name of person or Authority empowered to release, vary or modify restrictions numbered seven in the abovementioned plan**

Penrith City Council.

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Penrith City Council

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LEONAY NSW 2750

(Sheet 9 of 11 Sheets)

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

.....  
Name of Witness

Name and position of Attorney: Helen Smith  
Manager Property and Fleet

.....  
Address of Witness:  
c/- Endeavour Energy  
51 Huntingwood Drive  
HUNTINGWOOD NSW 2148

Power of Attorney: Book 4727 N° 524

Signing on behalf of:  
Endeavour Energy Network Asset Partnership  
ABN 30 586 412 717

Endeavour Energy reference:

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Date of signature: .....

.....  
Signatory

.....  
Delegate  
Penrith City Council

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Executed on behalf of the Corporation named  
below by the authorised persons whose  
signatures appear below pursuant to the  
authority specified

Corporation: **EMU PLAINS SPORTING AND RECREATION CLUB LIMITED**  
**(ACN 000 701 922)**

Authority: Section 127 Corporations Act 2001

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Signature of Director

.....  
Signature of Director/Secretary

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Name of Director

.....  
Name of Director/Secretary

.....  
Delegate  
Penrith City Council

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Penrith City Council by its authorised delegate pursuant to S377 Local Government Act 1919.

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

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Signature of Delegate

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Signature of Witness

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Name of Delegate

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Name of Witness

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Position of Delegate  
Penrith City Council

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Address of Witness