

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 22 Sheets

Plan:

Plan of Subdivision of Lot 945 & 946 D.P.  
2475  
covered by Council's Subdivision  
Certificate No.  
Dated:

<u>Full Name and address of Proprietor of land:</u>	200 Eighth Avenue Pty Ltd (ACN 620 430 640) Suite 301, Level 3 95 Pitt Street SYDNEY NSW 2000
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**Part 1 (Creation)**

	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 1.5 Wide (A)	113  114  115  118	114, 115, 118 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  115, 118 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  118 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  119 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'

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General Manager / Authorised Officer  
C&R Ref: 109-18-1 v3 26-08-20

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Sheet 2 of 22 Sheets

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1.	Easement To Drain Water 1.5 Wide (A)	119  120  121  122  123  124  125	120 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  121 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  122 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  123 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  124 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  125 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'  126 to 131 inclusive, Pt.162 denoted 'X' & Pt.944/2475 denoted 'Y'

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1.	Easement To Drain Water 1.5 Wide (A)	<p>126</p> <p>127</p> <p>128</p> <p>129</p> <p>130</p> <p>131</p> <p>132</p> <p>133</p> <p>134</p> <p>137</p> <p>138</p> <p>139</p> <p>140</p>	<p>127 to 131 inclusive, Pt.162 denoted 'X' &amp; Pt.944/2475 denoted 'Y'</p> <p>128 to 131 inclusive, Pt.162 denoted 'X' &amp; Pt.944/2475 denoted 'Y'</p> <p>129 to 131 inclusive, Pt.162 denoted 'X' &amp; Pt.944/2475 denoted 'Y'</p> <p>130, 131, Pt 162 denote 'X' &amp; Pt.944 D.P.2475 denote 'Y'</p> <p>131, Pt 162 denote 'X' &amp; Pt.944 D.P.2475 denote 'Y'</p> <p>Pt 162 denote 'X' &amp; Pt.944 D.P.2475 denote 'Y'</p> <p>133, 134, 137 to 142 inclusive</p> <p>134, 137 to 142 inclusive</p> <p>137 to 142 inclusive</p> <p>138, 139, 140, 141, 142</p> <p>139, 140, 141, 142</p> <p>140, 141, 142</p> <p>141, 142</p>

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	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 1.5 Wide (A)	141 160 161	142 161, Pt. 163 denoted 'S', Pt. 944/2475 denoted 'T' Pt. 163 denoted 'S', Pt. 944/2475 denoted 'T'
2.	Easement for Access, Maintenance & Overhang 0.9 Wide (B)	101 102 103 104 105 106 107 108 109 110 111 112 113, 114 116, 117 118 119 120	Pt. 162 denoted 'V', Pt. 944/2475 denoted 'W' 101 102 103 104 105 106 107 108 109 110 111 112 118 119 120 121

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2.	Easement for Access, Maintenance & Overhang 0.9 Wide (B)	121 122 123 124 125 126 127 128 129 130 131 132, 133 135, 136 137 138 139 140 141 144 145 146 147	122 123 124 125 126 127 128 129 130 131 Pt. 162 denoted 'X', Pt. 944/2475 denoted 'Y' 155 137 138 139 140 141 142 143 144 145 146

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2.	Easement for Access, Maintenance & Overhang 0.9 Wide (B)	148 150 151 152 153 154 155 158 159	147 149 150 151 152 153 154 157 158
3.	Easement To Drain Water Whole Lot (C)	113, 114, 115	Liverpool City Council
4.	Easement for Padmount Substation 2.75 Wide	118	Epsilon Distribution Ministerial Holding Corporation
5.	Restriction On The Use Of Land	Pt.118 & Pt.119 denoted 'E'	Epsilon Distribution Ministerial Holding Corporation
6.	Restriction On The Use Of Land	Pt.118 & Pt.119 denoted 'F'	Epsilon Distribution Ministerial Holding Corporation
7.	Restriction On The Use Of Land	Each Lot 101 to 161 inclusive	Every Other Lot 101 to 161 inclusive

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	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:-
<b>8.</b>	Restriction On The Use Of Land	113, 114, 115	Liverpool City Council
<b>9.</b>	Positive Covenant	113, 114, 115	Liverpool City Council
<b>10.</b>	Restriction On The Use Of Land	113, 114, 115	Liverpool City Council
<b>11.</b>	Positive Covenant	113, 114, 115	Liverpool City Council
<b>12.</b>	Restriction On The Use Of Land	113, 117, 132, 136, 143, 148 160	Liverpool City Council
<b>13.</b>	Restriction On The Use Of Land	144, 145, 146, 147, 148	Liverpool City Council

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## Part 2

### **Terms of easement, profit à prendre, restriction or positive covenant numbered 1 & 3 in the plan.**

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

**Name of Authority whose consent is required to release vary or modify the terms of the easement numbered 1 & 3 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

### **Terms of easement, profit à prendre, restriction or positive covenant numbered 2 in the plan.**

2.1 The owner of the lot benefitted by:

- (a) With prior reasonable notice given to the owner or occupier of a lot burdened, use the easement site (including any roof structure of the lot burdened) for the purpose of carrying out necessary work (including construction, maintenance and repair) on:
  - (i) The lot benefitted or overhanging structures within the easement site;
  - (ii) Any structure constructed or to be constructed by the owner of the lot benefitted, which cannot otherwise reasonably be carried out;
- (b) Do anything reasonably necessary for that purpose including:
  - (i) Entering into the lot burdened;
  - (ii) Taking anything onto the lot burdened; and
  - (iii) Carrying out the necessary works.

2.2 In exercising the rights under this clause 2.1, the owner of the lot benefitted must:

- (a) Ensure that all work on the lot benefitted or overhanging structures is done properly and carried out as quickly as practicable;
- (b) Cause as little inconvenience to the owner and any occupier of the lot burdened;
- (c) Cause as little damage as practicable to the lot burdened and any improvement on it;
- (d) Restore the lot burdened as nearly as is practicable to its former condition; and
- (e) Make good any collateral damage.

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## Part 2 (cont)

- 2.3 The owner of the lot benefitted indemnifies the owner of the lot burdened against any damage, injury, costs, expenses, liability, claim, suits or other actions arising from the exercise of the rights under this easement.
- 2.4 The owner of the lot burdened must not place any obstructions within the easement site or erect any building or other structure of any kind on or over the easement site except for any dwelling or garage or wall and/or slab, eave and/or gutter, meter boxes and/or roof structure attached to any dwelling or garage that has been granted development approval by Liverpool City Council, and
- 2.5 The owner of the lot burdened and the owner of the lot benefited acknowledge that it is not the responsibility of Liverpool City Council to determine any dispute in relation to the Easement for Access, Maintenance and Overhang and any dispute is a civil matter to be resolved with the relevant parties.

**Name of Authority whose consent is required to release vary or modify the terms of the easement numbered 2 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

**Terms of easement, profit à prendre, restriction or positive covenant numbered 4 in the plan.**

The terms set out in Memorandum No AK104621 registered at NSW Land Registry Services are incorporated into this document subject to replacing the words 'Endeavour Energy' with 'Epsilon Distribution Ministerial Holding Corporation'.

**Terms of easement, profit à prendre, restriction or positive covenant numbered 5 in the plan.**

### 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 (cont)

- 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 denoted 'E'.
- 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.

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## **Part 2 (cont)**

### **Terms of easement, profit à prendre, restriction or positive covenant numbered 6 in the plan.**

#### **1.0 Definitions**

- 1.1 **erect** includes construct, install, build and maintain.
- 1.2 **restriction site** means that part of the lot burdened affected by the restriction on the use of land as shown on the plan denoted 'F'

#### **2.0 No swimming pool or spa shall be erected or permitted to remain within the restriction site.**

#### **3.0 Lessee of Epsilon Distribution Ministerial Holding Corporation Distribution System**

- 3.1 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 distribution system, and any nominee of such lessee (which may include a sublessee of Epsilon Distribution Ministerial Holding Corporation 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 distribution system from Epsilon Distribution Ministerial Holding Corporation.
- 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 Epsilon Distribution Ministerial Holding Corporation.

**Name of Authority empowered to release vary or modify the terms of the easement and restrictions numbered 4, 5 & 6 in the plan is Epsilon Distribution Ministerial Holding Corporation.**

### **Terms of easement, profit à prendre, restriction or positive covenant numbered 7 in the plan.**

- 7.1 No garage outbuildings or other structures shall be erected or be permitted to remain on any lot burdened unless erected concurrently with or subsequently to the erection of a residential building.

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## **Part 2 (cont)**

7.2 No existing dwelling house or building or part thereof shall be partly or wholly moved to or placed and re-erected upon or re-constructed on or be permitted to remain on any lot burdened.

7.3 No building or any part thereof shall be erected or be permitted to remain on any lot burdened unless constructed entirely of new materials.

7.4 No building or buildings shall be erected or be permitted to remain erected on any lot burdened other than with external walls of brick and/or brick veneer and/or stone and/or concrete and/or glass and/or timber and/or hardiplank or similar product. No building or buildings shall be erected or permitted to remain erected on any lot burdened having a roof other than clay tiles, cement tiles, slate or non reflective surface corrugated iron. All roofing materials shall be black or shades of grey only.

7.5 No vehicle of any make or kind having a tare weight exceeding 5 tonnes shall be garaged, housed, parked, serviced or mechanical repairs carried out thereon or allowed to remain on any lot burdened except where such vehicles are being used for the delivery of goods or purposes of construction of any improvement on any lot burdened.

7.6 No fence shall be erected or permitted to remain on any lot hereby burdened unless the fencing is of a timber lapped and/or lapped and capped construction or colorbond fence provided that colorbond fence can only use colours shale grey, dune, basalt & woodland grey.

7.7 No fence shall be erected on each lot burdened to divide it from any adjoining land owned by the abovenamed proprietors without the consent of the abovenamed proprietors but such consent shall not be withheld if such fence is erected without expense to the abovenamed proprietors provided that this restriction shall remain in force only during such time as the abovenamed proprietors are the Registered Proprietors of any land and shall bind the adjoining owner of such land successive owners and assigns of each lot burdened.

7.8 No advertising hoarding signs or matter shall be displayed or erected on any lot burdened (other than a sign advertising that the said lot is for sale) without the prior written consent of 200 Eighth Avenue Pty Limited or its successors in title or assigns.

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## **Part 2 (cont)**

7.9 No driveway shall be constructed on any lot burdened unless its surface is comprised of faux or stamped concrete or pavers or as approved by 200 Eighth Avenue Pty Limited or its assigns AND unless driveway construction is undertaken prior to practical completion of the main building.

7.10 No dwelling shall be erected or permitted to remain on any lot burdened unless the area between the building line and the front boundary of the lot burdened is turfed.

7.11 No release variation or modification of these restrictions shall be made unless the cost and expense in all respects is borne by the person or persons requesting same.

**Name of Authority whose consent is required to release vary or modify the term of the restriction numbered 7 in the plan is 200 Eighth Avenue Pty Ltd for five years from the date of registration of the plan and after that time the lots benefited.**

**Terms of easement, profit à prendre, restriction or positive covenant numbered 8 in the plan.**

The Registered Proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary On-site Detention Storage Area & Outlet Works (hereinafter referred to as 'the system') constructed within the lots hereby burdened that they will not, without the prior and express written consent of the Authority benefited:

1. Do any act, matter or thing which would prevent the system from operating in a safe and efficient manner.
2. Make or permit or suffer the making of any alterations or additions to the system.
3. Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the device.

This restriction shall bind all persons who are of claim under the registered proprietor(s) as stipulated in Section 88E (5) of the Conveyancing Act 1919.

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## Part 2 (cont)

For the purpose of this restriction, 'the system' means the Temporary On-site Detention Storage Area & Outlet Works to be constructed and/or installed on the land as required by Development Consent No 475/2019 and as detailed on the plans approved by Liverpool City Council as Construction Certificate No. xxxxx on xx xxxxx 2020 including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to treat stormwater, as well as all surfaces graded to direct stormwater to the device. A copy of this Construction Certificate is held on Council File CCE-xxxxx.

Liverpool City Council will have no objection to the release of this restriction upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works and future temporary quality control devices and outlet works within the lots hereby burdened.

**Name of Authority whose consent is required release vary or modify restriction numbered 8 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

**Terms of easement, profit à prendre, restriction or positive covenant numbered 9 in the plan.**

1. The registered proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary On-Site Detention Storage Area & Outlet Works (hereinafter referred to as 'the system') constructed and/or installed on the lots hereby burdened, that they will:

- (a) Keep the system clean and free from silt, rubbish and debris
- (b) Maintain and repair, at the sole expense of the registered proprietor(s) that part of the system contained within the registered proprietor's own lot, so that it functions in a safe and efficient manner, in accordance with the Maintenance Schedule, a copy of which is held on Council File xxxxx. A copy of this Schedule is available to all owners and occupiers of the burdened lot(s).
- (c) For the purpose of ensuring observance of this covenant, permit Liverpool City Council or its authorised agents (hereinafter referred to as 'the Council') from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter the land and inspect the condition of the system and the state of construction, maintenance or repair of the system, for compliance with the requirements of this covenant.

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## Part 2 (cont)

- (d) Notify Council in writing after each programmed maintenance inspection.
- (e) Comply with the terms of any written notice issued by the Council to attend to any matter and carry out such work within the time stated in the notice, to ensure the proper and efficient performance of the system and to that extent Section 88F (2) (a) of the Conveyancing Act 1919 (hereinafter referred to as 'the Act') is hereby agreed to be amended accordingly.

2. Pursuant to Section 88F (3) of the Act the Council shall have the following additional powers pursuant to this covenant:

- (a) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council may enter the land with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the said notice referred to in 1(e) above.
- (b) The Council may recover from the registered proprietor in a court of competent jurisdiction:

- I. Any expense reasonably incurred by it in exercising its powers in sub-paragraph 2(a) above. Such expense shall include reasonable wages for employees engaged in effecting, supervising and administering the said work, together with costs, reasonable estimated by Council, for the use of materials, machinery, tools and equipment used in conjunction with the said work.
- II. Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs, charges and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

- 3. This covenant shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E (5) of the Act.

For the purpose of this restriction, 'the system' means the Temporary On-Site Detention Storage Area & Outlet Works constructed and/or installed on the land as required by Development Consent No. 475/2019 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. xxxxx on xx xxxxx 2020 including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage. A copy of this Construction Certificate is held on Council File xxxxx.

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## **Part 2 (cont)**

Liverpool City Council will have no objection to the release of this positive covenant upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works within the lots hereby burdened.

**Name of Authority whose consent is required to release vary or modify the terms of the positive covenant numbered 9 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

**Terms of easement, profit à prendre, restriction or positive covenant numbered 10 in the plan.**

The Registered Proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary Stormwater Pre-treatment System (hereinafter referred to as 'the system') constructed within the lots hereby burdened that they will not, without the prior and express written consent of the Authority benefited:

1. Do any act, matter or thing which would prevent the system from operating in a safe and efficient manner.
2. Make or permit or suffer the making of any alterations or additions to the system.
3. Allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the device.

This restriction shall bind all persons who are of claim under the registered proprietor(s) as stipulated in Section 88E (5) of the Conveyancing Act 1919.

For the purpose of this restriction, 'the system' means the Temporary Stormwater Pre-treatment System to be constructed and/or installed on the land as required by Development Consent No 475/2019 and as detailed on the plans approved by Liverpool City Council as Construction Certificate No. xxxxx on xx xxxxx 2020 including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to treat stormwater, as well as all surfaces graded to direct stormwater to the device. A copy of this Construction Certificate is held on Council File CCE-xxxxx.

Liverpool City Council will have no objection to the release of this restriction upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the Temporary Stormwater Pre-treatment System and future temporary quality control devices and outlet works within the lots hereby burdened.

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## Part 2 (cont )

**Name of Authority whose consent is required to release vary or modify the terms of the restriction numbered 10 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

### **Terms of easement, profit à prendre, restriction or positive covenant numbered 11 in the plan.**

1. The registered proprietor(s) covenant as follows with the Authority benefited in respect to the Temporary Stormwater Pre-treatment System (hereinafter referred to as 'the system') constructed and/or installed on the lots hereby burdened, that they will:
  - (a) Keep the system clean and free from silt, rubbish and debris
  - (b) Maintain and repair, at the sole expense of the registered proprietor(s) that part of the system contained within the registered proprietor's own lot, so that it functions in a safe and efficient manner, in accordance with the Maintenance Schedule, a copy of which is held on Council File xxxxx. A copy of this Schedule is available to all owners and occupiers of the burdened lot(s).
  - (c) For the purpose of ensuring observance of this covenant, permit Liverpool City Council or its authorised agents (hereinafter referred to as 'the Council') from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter the land and inspect the condition of the system and the state of construction, maintenance or repair of the system, for compliance with the requirements of this covenant.
  - (d) Notify Council in writing after each programmed maintenance inspection.
  - (e) Comply with the terms of any written notice issued by the Council to attend to any matter and carry out such work within the time stated in the notice, to ensure the proper and efficient performance of the system and to that extent Section 88F (2) (a) of the Conveyancing Act 1919 (hereinafter referred to as 'the Act') is hereby agreed to be amended accordingly.
4. Pursuant to Section 88F (3) of the Act the Council shall have the following additional powers pursuant to this covenant:
  - (c) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council may enter the land with all necessary equipment and carry out any work considered by Council to be reasonable to comply with the said notice referred to in 1(e) above.

APPROVED BY LIVERPOOL CITY COUNCIL

.....  
General Manager / Authorised Officer  
C&R Ref: 109-18-1 v3 26-08-20

Plan:

Plan of Subdivision of Lot 945 & 946 D.P.  
2475  
covered by Council's Subdivision  
Certificate No.  
Dated:

## Part 2 (cont)

- (d) The Council may recover from the registered proprietor in a court of competent jurisdiction:
- III. Any expense reasonably incurred by it in exercising its powers in sub-paragraph 2(a) above. Such expense shall include reasonable wages for employees engaged in effecting, supervising and administering the said work, together with costs, reasonable estimated by Council, for the use of materials, machinery, tools and equipment used in conjunction with the said work.
  - IV. Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs, charges and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.
5. This covenant shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E (5) of the Act.

For the purpose of this restriction, 'the system' means the Temporary Stormwater Pre-treatment System constructed and/or installed on the land as required by Development Consent No. 475/2019 and as detailed on the plans approved by Liverpool City Council as approved Construction Certificate No. xxxxx on xx xxxxx 2020 including all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to detain stormwater, as well as all surfaces graded to direct stormwater to the temporary storage. A copy of this Construction Certificate is held on Council File xxxxx.

Liverpool City Council will have no objection to the release of this positive covenant upon the relevant regional downstream basins being constructed and commissioned and the decommissioning of the temporary onsite detention and outlet works within the lots hereby burdened.

**Name of Authority whose consent is required to release vary or modify the terms of the positive covenant numbered 11 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

APPROVED BY LIVERPOOL CITY COUNCIL

.....  
General Manager / Authorised Officer  
C&R Ref: 109-18-1 v3 26-08-20

Lengths are in Metres

Sheet 19 of 22 Sheets

Plan:

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Dated:

## **Part 2 (cont)**

**Terms of easement, profit à prendre, restriction or positive covenant numbered 12 in the plan.**

No dwelling house shall be constructed on the lot(s) hereby burdened unless the driveway crossings are located at least 6 metres away to the kerb and gutter tangent point.

**Name of Authority whose consent is required to release vary or modify the terms of the restriction numbered 12 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

**Terms of easement, profit à prendre, restriction or positive covenant numbered 13 in the plan.**

No dwelling shall be erected on the lot hereby burdened unless sited and constructed in accordance with controls set out in the Building Envelope Plan prepared by DKO architecture (NSW) Pty Ltd project number 12305, sheets 100, 104, 105 & 109 Revision x, dated June 2019.

**Name of Authority whose consent is required to release vary or modify the terms of the restriction numbered 13 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

APPROVED BY LIVERPOOL CITY COUNCIL

.....  
General Manager / Authorised Officer  
C&R Ref: 109-18-1 v3 26-08-20

Lengths are in Metres

Sheet 20 of 22 Sheets

Plan:

Plan of Subdivision of Lot 945 & 946 D.P.  
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**Part 2 (cont)**

**EXECUTED** by 200 Eighth Avenue Pty Ltd )  
(ACN 620 430 640) )  
In accordance with section 127 (1) of the )  
Corporations Act: )

.....  
Signature of Sole Director and Secretary

.....  
Name of Sole Director and Secretary

APPROVED BY LIVERPOOL CITY COUNCIL

.....  
General Manager / Authorised Officer  
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Lengths are in Metres

Sheet 21 of 22 Sheets

Plan:

Plan of Subdivision of Lot 945 & 946 D.P.  
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Dated:

## Part 2 (cont)

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:

Address of witness:  
c/- Endeavour Energy  
51 Huntingwood Drive  
Huntingwood NSW 2148

Power of attorney:  
Book 4727 No 524

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

Endeavour Energy reference:

Date of signature:

APPROVED BY LIVERPOOL CITY COUNCIL

.....  
General Manager / Authorised Officer  
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Sheet 22 of 22 Sheets

Plan:

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## Part 2 (cont)

Liverpool City Council by its authorised delegate pursuant to s.377 of Local Government  
Act 1993 No 30

\_\_\_\_\_  
(name of delegate)

.....  
Signature of Delegate

.....  
Name of Delegate (print)

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

.....  
Signature of Witness

.....  
Name of Witness (print)

.....  
Address of Witness

APPROVED BY LIVERPOOL CITY COUNCIL

.....  
General Manager / Authorised Officer  
C&R Ref: 109-18-1 v3 26-08-20