

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 9 Sheets

Plan:

Plan of Subdivision of Lot 200 D.P.  
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)	310 311 312 315 316 317 318 319 320 321 322	311, 312, 315 to 323 inclusive 312, 315 to 323 inclusive 315 to 323 inclusive 316 to 323 inclusive 317 to 323 inclusive 318, 319, 320, 321, 322, 323 319, 320, 321, 322, 323 320, 321, 322, 323 321, 322, 323 322, 323 323
2.	Easement for Access, Maintenance & Overhang (B)	302 303 304	301 302 303

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General Manager / Authorised Officer  
C&R Ref: 109-18-3 v3 02-09-20

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Sheet 2 of 9 Sheets

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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:-
2.	Easement for Access, Maintenance & Overhang 0.9 Wide (B)	305 306 307 308 309 310 311 312 313, 314 315 316 317 318 319 320 321 322	304 305 306 307 308 311 312 313 315 316 317 318 319 320 321 322 323
3.	Easement for Access, Maintenance & Overhang 0.9 Wide (B1)	310, 311	309
4.	Restriction On The Use Of Land	Each Lot 301 to 323 inclusive	Every other Lot 301 to 323 inclusive

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Sheet 3 of 9 Sheets

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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>5.</b>	Restriction On The Use Of Land	310, 311, 312, 313 314	Liverpool City Council
<b>6.</b>	Restriction On The Use Of Land	310, 314	Liverpool City Council

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## Part 2

### **1. Terms of easement, profit à prendre, restriction or positive covenant numbered 1 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 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

### **2. Terms of easement, profit à prendre, restriction or positive covenant numbered 2 & 3 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 benefitted 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 & 3 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

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

- 3.1 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.
- 3.2 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.
- 3.3 No building or any part thereof shall be erected or be permitted to remain on any lot burdened unless constructed entirely of new materials.
- 3.4 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

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## **Part 2 (cont)**

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.

3.5 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.

3.6 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.

3.7 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.

3.8 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

3.9 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.

3.10 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.

3.11 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.

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**Name of Authority whose consent is required to release vary or modify the term of the restriction numbered 4 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.**

### **4. Terms of easement, profit à prendre, restriction or positive covenant numbered 5 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 100-103, Revision D, dated 14 Nov 19 & sheets 200-203, Revision A, dated 14 Nov 19, approved by Notice of Determination No. DA-477/2019 issued by Liverpool City Council on 30 June 2020 or any subsequent modification of DA-477/2019 approved by Liverpool City Council

**Name of Authority whose consent is required to release vary or modify the term of the restriction numbered 5 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

### **5. Terms of easement, profit à prendre, restriction or positive covenant numbered 6 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 6 in the plan is Liverpool City Council. All costs associated with any such release, variation or modification shall be borne by the applicant.**

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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

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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

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