

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 14 Sheets

Plan:

Plan of Subdivision of Lot 162 & 163
D.P.... & Lot 943 & 944 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)	210 211 212 215 216 217 218 219 220 221 222 225 226 227	211, 212, 215 to 223 inclusive 212, 215 to 223 inclusive 215 to 223 inclusive 216 to 223 inclusive 217 to 223 inclusive 218, 219, 220, 221, 222, 223 219, 220, 221, 222, 223 220, 221, 222, 223 221, 222, 223 222, 223 223 224 224, 225 224, 225, 226

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General Manager / Authorised Officer
C&R Ref: 109-18-2 v3 02-09-20

Lengths are in Metres

Sheet 2 of 14 Sheets

Plan:

Plan of Subdivision of Lot 162 & 163
D.P.... & Lot 943 & 944 D.P. 2475
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Certificate No.
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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)	228 231 234 235 236 237 238	224, 225, 226, 227 224, 225, 226, 227, 228 233 233, 234 233, 234, 235 233, 234, 235 233, 234, 235, 236 233, 234, 235, 236, 237
2.	Easement for Access, Maintenance & Overhang 0.9 Wide (B)	202 203 204 205 206 207 208 209 210 211 212 213, 214 215 216 217 218	201 202 203 204 205 206 207 208 211 212 213 215 216 217 218 219

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Plan:

Plan of Subdivision of Lot 162 & 163
D.P.... & Lot 943 & 944 D.P. 2475
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Certificate No.
Dated:

	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)	219 220 221 222 225 226 227 228 229, 230 234 235 236 237 238	220 221 222 223 224 225 226 227 228 233 234 235 236 237
3.	Easement for Access, Maintenance & Overhang 0.9 Wide (B1)	210, 211	209
4.	Easement for Padmount Substation 2.75 Wide	209	Epsilon Distribution Ministerial Holding Corporation
5.	Restriction On The Use Of Land	Pt. 208 & Pt. 209 denoted 'D'	Epsilon Distribution Ministerial Holding Corporation

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Plan:

Plan of Subdivision of Lot 162 & 163
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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:-
6.	Restriction On The Use Of Land	Pt. 208 & Pt. 209 denoted 'E'	Epsilon Distribution Ministerial Holding Corporation
7.	Restriction On The Use Of Land	Each Lot 201 to 239 inclusive	Every other Lot 201 to 239 inclusive
8.	Restriction On The Use Of Land	210, 211, 212, 213, 214, 234, 235, 236, 237	Liverpool City Council
9.	Restriction On The Use Of Land	210, 214, 229, 233, 238	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 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 & 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.

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 'D'.
- 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.

Plan:

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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 'E'

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.

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

- 4.1 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)

4.2 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.

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

4.4 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.

4.5 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.

4.6 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.

4.7 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.

4.8 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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General Manager / Authorised Officer
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Part 2 (cont)

4.9 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.

4.10 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.

4.11 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.

5. Terms of easement, profit à prendre, restriction or positive covenant numbered 8 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 8 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)

Terms of easement, profit à prendre, restriction or positive covenant numbered 9 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 9 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)

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:

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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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