

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.

(Document 1)

Lengths are in Metres

Sheet 1 of 10 Sheets

Plan: **DP271139**

Plan of Subdivision of Lot 230

D.P. 1238959 covered by Council's


Subdivision Certificate No. 2019/0032

Full Name and address of Proprietor of land:	WOOLWICH PTY LIMITED ACN 608231787  Level 1, 8 Knox Lane, Double Bay, NSW 2028
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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 Variable Width (B)	1	Northern Beaches Council
2.	Easement to Drain Water 2.5 wide (C)	19 20	18 21
3.	Positive Covenant (F)	1	Northern Beaches Council
4.	Restriction on Use of Land (G)	1	Northern Beaches Council
5.	Easement for Access & Maintenance 0.9 Wide (H)	4,5 6 8 9 10 11 12 13 14 17 24	30 8 9 10 11 12 13 14 15 16 23

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 .....  
 General Manager / Authorised Officer

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**Part 1 (cont)**

	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:-
	Easement for Access & Maintenance 0.9 Wide (H)	25 26 27 28 29 30	24 25 26 27 28 29
6.	Positive Covenant (J)	1	Northern Beaches Council
7.	Right of Footway Variable Width (K)	1	Northern Beaches Council
8.	Restriction on the Use of Land	2 to 30 inclusive	Northern Beaches Council
9.	Restriction on the Use of Land (BE), (BE1), (BE2), (BE3)	2 to 30 inclusive	Northern Beaches Council
10.	Restriction on the Use of Land	2 to 30 inclusive	2 to 30 inclusive

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Subdivision Certificate No. **2019/0032****Part 2****Terms of easement, profit à prendre, restriction or positive covenant numbered 1 in the plan.**

An easement to drain water as set out in Part 3 of Schedule 4A of the Conveyancing Act 1919 denoted 'B' in the plan accompanying this instrument.

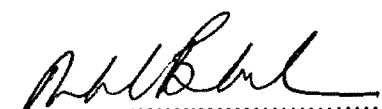
**Name of Authority empowered to release vary or modify easement numbered 1 in the plan is Northern Beaches Council.****Terms of easement, profit à prendre, restriction or positive covenant numbered 2 in the plan.**

An easement to drain water as set out in Part 3 of Schedule 8 of the Conveyancing Act 1919 denoted 'C' in the plan accompanying this instrument.

**Name of Authority whose consent is required to release vary or modify easement numbered 2 in the plan is Northern Beaches Council.****Terms of easement, profit à prendre, restriction or positive covenant numbered 3 in the plan.**

1. In this positive covenant, the following expressions have the following meaning:
- (a) **Act** means Conveyancing Act 1919.
  - (b) **Burdened Lot** means Lot 1 in the Plan;
  - (c) **Construction Certificate** means construction certificate No. CC2018/0680 dated 28/05/2018.
  - (d) **Council** means Northern Beaches Council and its successors.
  - (e) **Development Consent** means the development consent no. N0491/16 pursuant to the orders made by the Land and Environment Court of New South Wales on 29 November 2017, Case No. 2017/00053907.
  - (f) **Operations Manual** means the Operation and Maintenance Manual for Water Quality Devices in respect of the System, prepared by Craig & Rhodes dated December 2019 a copy of which is annexed to the community management statement registered with the Plan.
  - (g) **Plan** means the plan accompanying this instrument;
  - (h) **Registered Proprietor** means each registered proprietor of the Burdened Lot and its transferees, successors and assigns.

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Lengths are in Metres

Plan: **DP271139**

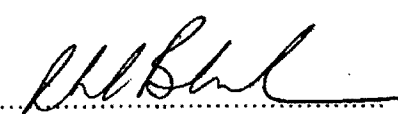
Plan of Subdivision of Lot 230

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- (i) **System** means the on-site detention storage area and outlet works to be constructed and/or installed on the lot burdened in the location donated 'F' in the plan accompanying this instrument in accordance with the Development Consent and plans approved as part of the Construction Certificate 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 System.
2. The Registered Proprietor covenants as follows with the Council in respect to the System constructed and/or installed on the Burdened Lot, that they will:
- (a) keep the System clean and free from silt, rubbish and debris.
  - (b) maintain and repair that part of the System contained within the lot burdened so that it functions in accordance with the Operations Manual.
  - (c) for the purpose of ensuring observance of this covenant, permit Council or its authorised agents 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 Act is agreed to be amended accordingly.
3. 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 clause 2(e).
  - (b) The Council may recover from the owner of the lot burdened in a court of competent jurisdiction:
    - (i) any expense reasonably incurred by it in exercising its powers in clause 3(a). 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

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the use of materials, machinery, tools and equipment used in conjunction with the said work; and

- (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.

- (c) This covenant shall bind all persons who are or claim under the Registered Proprietor as stipulated in Section 88E(5) of the Act.

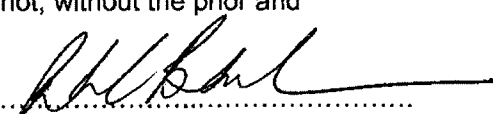
4. The Registered Proprietor must maintain insurance for public risk in an amount of \$20 million (or such higher amount as the Council reasonably requires) in respect of that part of the Burdened Lot that includes the System.

**Name of Authority empowered to release, vary or modify positive covenant numbered 3 in the plan is Northern Beaches Council.**

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

1. In this restriction on use of land, the following expressions have the following meaning:
- (a) **Act** means Conveyancing Act 1919.
  - (b) **Construction Certificate** means construction certificate No. CC2018/0680 dated 28/05/2018.
  - (c) **Council** means Northern Beaches Council and its successors.
  - (d) **Development Consent** means the development consent no. N0491/16 pursuant to the orders made by the Land and Environment Court of New South Wales on 29 November 2017, Case No 2017/00053907.
  - (e) **System** means the On-site Detention Storage Area & Outlet Works to be constructed and/or installed on the lot burdened in the location donated 'G' in the plan accompanying this instrument in accordance with the Development Consent and plans approved as part of the Construction Certificate 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 system.
2. The Owner of the lot burdened covenants as follows with Council in respect of the System within the lot burdened, that they will not, without the prior and express written consent of Council:

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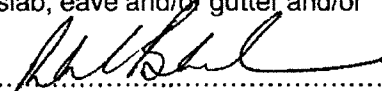
- (a) do any act, matter or thing which would prevent the System from operating in a safe and efficient manner.
  - (b) make or permit or suffer the making of any alterations or additions to the System.
  - (c) allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the System.
3. This restriction shall bind all persons who are of claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Act.

**Name of Authority empowered to release, vary or modify restriction numbered 4 in the plan is Northern Beaches Council.**

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

1. The proprietor of the lot benefited and persons authorised by them may:
- (a) enter upon the lot burdened but only within the site of this easement, denoted 'H' in the plan accompanying this instrument.
  - (b) do anything reasonably necessary for the purpose of constructing, renewing, replacing, painting, repairing and maintaining the dwelling adjacent to this easement.
  - (c) remain on the site of this easement for any reasonable time for the said purposes.
2. In exercising those powers the proprietor of the lot benefited must:
- (a) ensure that all work is done properly and carried out as quickly as practicable; and
  - (b) cause as little inconvenience to the proprietor or occupier of the lot burdened; and
  - (c) cause as little damage as possible to the lot burdened and any improvement on it; and
  - (d) restore as nearly as is practicable the lot burdened to its former condition; and
  - (e) make good any collateral damage.
3. The proprietor of the lot burdened shall not place any obstructions within the site of the easement nor erect any building or other structure of any kind on or over the site of the easement except for any wall and/or slab, eave and/or gutter and/or

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roof structure attached to any dwelling or garage that has been granted development approval by Northern Beaches Council.

4. The owner of the lot burdened and the owner of the lot benefited acknowledge that it is not the responsibility of Northern Beaches Council to determine any dispute in relation to the Easement for Access & Maintenance 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 5 in the plan is Northern Beaches Council.**

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

The registered proprietor of the lot burdened will maintain and manage at the sole expense of that registered proprietor the lot burdened in accordance with the requirements set out in:

- (a) the Vegetation Management Plan prepared by Total Earth Care Pty Ltd TEC Job No. B10421, Revision/Version No. Rev C, Date of revision 22 November 2019; and
- (b) the Stormwater Management Report prepared by Craig & Rhodes, dated September 2019, Issue No.9,

a copy of each document is annexed to the community management statement registered with the plan accompanying this instrument.

**Name of Authority empowered to release vary or modify the terms of the positive covenant numbered 6 in the plan is Northern Beaches Council**

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

Right of footway for full and free right for the public to go, pass and repass at all times and for all purposes with or without animals or bicycles or both, across the lot burdened but only within the shared pathway within the site of this easement and denoted 'K' in the plan accompanying this instrument.

**Name of Authority empowered to release vary or modify the terms of the positive covenant numbered 7 in the plan is Northern Beaches Council.**

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

The registered proprietor shall not occupy or permit the occupation of any dwelling house or other structure on the lot burdened unless the registered proprietor has first constructed and/or installed a 4kL rainwater tank approved by Council and plumbing

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from the rainwater tank is to supply cold water laundry, toilet flushing, car washing, and outdoor irrigation and any amendments required by the conditions of consent.

Each registered proprietor of a lot burdened will maintain their rainwater tank in accordance with the manufacturer's specifications.

Each registered proprietor of a lot burdened shall not make or permit or suffer the making of any alterations to any rainwater tank which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Council.

**Name of Authority empowered to release, vary or modify the terms of the restrictive on the use of land numbered 8 in the plan is Northern Beaches Council.**

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

No part of the dwelling, garage or other habitable building may be constructed or allowed to remain on the lots(s) burdened unless:

- (a) it is contained wholly within the approved footprint as delineated 'BE';
- (b) the height is limited to a one storey building as delineated 'BE1';
- (c) the height is limited to a two storey building as delineated as 'BE2'; and
- (d) the garage is located as delineated 'BE3',

in the plan accompanying this instrument.


**Name of Authority empowered to release, vary or modify the terms of the restriction on the use of land numbered 9 in the plan is Northern Beaches Council.**

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

No fence shall be erected on any part of the lot burdened or on any of its boundaries, to divide the lot burdened from any adjoining land or from any road, unless such fence shall be erected without any cost to Woolwich Pty Limited. This restriction on the use of land only operates whilst Woolwich Pty Limited is the owner of an adjoining lot to the lot burdened.

**Name of Authority whose consent is required to release, vary or modify the terms of the restriction on the use of land numbered 10 in the plan is Woolwich Pty Ltd.**

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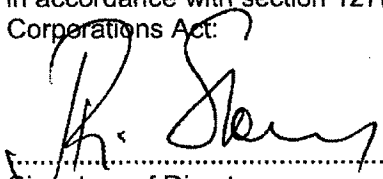
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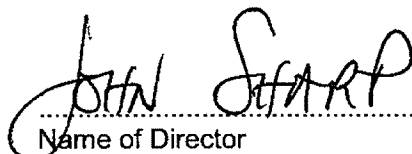
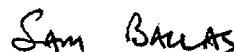
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## Part 2 (cont)

EXECUTED by Woolwich Pty Limited  
(ACN 608 231 787)in accordance with section 127(1) of the  
Corporations Act:  
.....  
Signature of Director  
.....

Signature of Director/Secretary

  
.....  
Name of Director  
.....

Name of Director/Secretary

EXECUTED by National Australia Bank

Mortgagee under Mortgage No. AM239497Signed at Bankstown this 11<sup>th</sup> day of December20 11 for National Australia Bank Limited ABN 12 004 044 937by Ha Vo its dulyappointed Attorney under Power of Attorney No. 39 Book 4512Attorney Signature, Level 3 Attorney Witness Signature Tung Ta TongWitness Name THUAN TONGWitness Address 402 CHAPEL Rd BankstownNSW 2200Level 5,  
402-410 Chapel Road,  
Bankstown NSW 2200

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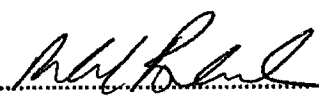
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**Part 2 (cont)**

The Northern Beaches Council by its authorised delegate pursuant to s.377 of Local  
Government Act 1993 No 30 ROBERT BARBUTO

(name of delegate)

  
Signature of Delegate  
ROBERT BARBUTO  
Name of Delegate (print)

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


  
Signature of Witness

PAUL DAVID  
Name of Witness (print)

725 PITTWATER ROAD

DEE WHY NSW 2099  
Address of Witness

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General Manager / Authorised Officer

REGISTERED



16.12.2019