

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 10 Sheets

Plan:

Plan of Subdivision of Lot 32 Section C  
D.P. 5464 covered by Council's  
Subdivision Certificate No.

|   |  |
|---|--|
| <u>Full Name and address of Proprietor of land:</u> | WOOLWICH PTY LIMITED<br>ACN 608231787<br><br>Level 1, 8 Knox Lane, Double Bay, NSW<br>2028 |
|---|--|

**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)   | 230                            | Northern Beaches Council                                      |
| 2. | Easement to Drain Water 1.5 wide (C)   | 218<br>219                     | 217<br>220  |
| 3. | Positive Covenant  | 230, 231                       | Northern Beaches Council                                      |
| 4. | Restriction on Use of Land   | 230, 231                       | Northern Beaches Council                                      |
| 5. | Restriction on Use of Land   | Fill lots                      | Northern Beaches Council                                      |
| 6. | Restriction on Use of Land   | Saline lots                    | Northern Beaches Council                                      |
| 7. | Positive Covenant  | That part lot 230 denoted 'F'  | Northern Beaches Council                                      |
| 8. | Restriction on Use of Land   | That part lot 230 denoted 'G'  | Northern Beaches Council                                      |

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General Manager / Authorised Officer

Plan:

Plan of Subdivision of Lot 4  
D.P. 1182446 covered by Council's  
Subdivision Certificate No.

**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:-   |
|-----------|--|---|---|
| <b>9.</b> | Easement for Access & Maintenance 0.9 Wide (H)   | 201, 202, 203, 204<br>205, 206<br>207<br>208<br>209<br>210<br>211<br>212<br>213<br>216<br>223<br>224<br>225<br>226<br>227<br>228<br>229 | 229<br>207<br>208<br>209<br>210<br>211<br>212<br>213<br>214<br>215<br>222<br>223<br>224<br>225<br>226<br>227<br>228 |

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## Part 2

**Name of Authority empowered to release vary or modify easement numbered 1 & 2 in the plan is Northern Beaches Council.**

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

The registered proprietor of the lot(s) hereby burdened will maintain and manage at the sole expense of the registered proprietors that part of their lot(s) denoted 'D' in the abovementioned plan as an asset protection zone (inner protection area), in accordance with the requirements of Section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Name of Authority empowered to release vary or modify the terms of the 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.**

[ APZ terms for maintenance to be provided ]

**Name of Authority empowered to release vary or modify the terms of the 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.**

No building shall be erected on the lot hereby burdened being a filled lot unless constructed on pier and beam footings to safe and uniform strata or alternatively on footings or slab designed and certified by a Chartered Professional Engineer to the requirements and satisfaction of the Northern Beaches Council.

**Name of Authority empowered to release vary or modify the terms of the restriction numbered 5 in the plan is Northern Beaches Council.**

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

No building or structure shall be erected on the lot hereby burdened unless the design of the footing system is per exposure classification in Table 1.1 below, in accordance with AS2870-2011 unless such a footing system is designed and certified by a Chartered Professional Engineer.

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| <b>Exposure Classification</b> | <b>Lot</b>         |
|--------------------------------|--------------------|
| A1                             | Subject to testing |
| A2                             | Subject to testing |
| B1                             | Subject to testing |
| B2                             | Subject to testing |

**Name of Authority empowered to release vary or modify restriction numbered 6 in the plan is Northern Beaches Council.**

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## Part 2 (cont)

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

- 1 In this positive covenant, the following expressions have the following meaning:
  - (a) **'Act'** means Conveyancing Act 1919.
  - (b) **'Construction Certificate'** means construction certificate No. xxxxx approved by xxxx xxxx dated xx xxxx xxxx held on Council File CC-xx-xxx.
  - (c) **'Council'** means Northern Beaches Council and its successors.
  - (d) **'Development Consent'** means the development consent No xx-xxxx.
  - (e) **'Maintenance Schedule'** means the schedule shown on Approved plan, a copy of which is held on Council File CC-xx-xxxx.
  - (f) **'System'** means the On-site Detention Storage Area & Outlet Works to be constructed and/or installed on the lot burdened 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 the Council in respect to the System constructed and/or installed on the lots 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 owner of the lot burdened, that part of the System contained within the lot burdened so that it functions in accordance with the Maintenance Schedule.
  - (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.

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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 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 owner of the lot burdened 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 18.2(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 18.3(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 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
    - (iii) 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 owner of the lot burdened as stipulated in Section 88E(5) of the Act.
- 4 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 empowered to release vary or modify positive covenant numbered 7 in the plan is Northern Beaches Council.**

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## Part 2 (cont)

### Terms of easement, profit à prendre, restriction or positive covenant numbered 8 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. xxxx approved by xxx xxxx dated xx xxxx xxxx is held on Council File CC-xx-xxxx.
  - (c) **'Council'** means Northern Beaches Council and its successors.
  - (d) **'Development Consent'** means the development consent No xx-xxxx.
  - (e) **'System'** means the On-site Detention Storage Area & Outlet Works to be constructed and/or installed on the lot burdened 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 lots burdened, that they will not, without the prior and express written consent of Council:
  - (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.

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**Part 2 (cont)**

- 4 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 within the lots hereby burdened.

**Name of Authority empowered to release vary or modify restriction numbered 8 in the plan is Northern Beaches Council.**

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

The proprietor of the lot benefited and persons authorised by him may:

- (a) enter upon the burdened lot but only within the site of this easement.
- (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.

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 burdened lot; and
- (c) cause as little damage as possible to the burdened lot and any improvement on it and
- (d) restore as nearly as is practicable the burdened lot to its former condition; and
- (e) make good any collateral damage; and

The proprietor of the burdened lot 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 roof structure attached to any dwelling or garage that has been granted development approval by Northern Beaches Council, and

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 empowered to release vary or modify the terms of the easement numbered 9 in the plan is Northern Beaches Council.**

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General Manager / Authorised Officer



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**Part 2 (cont)**

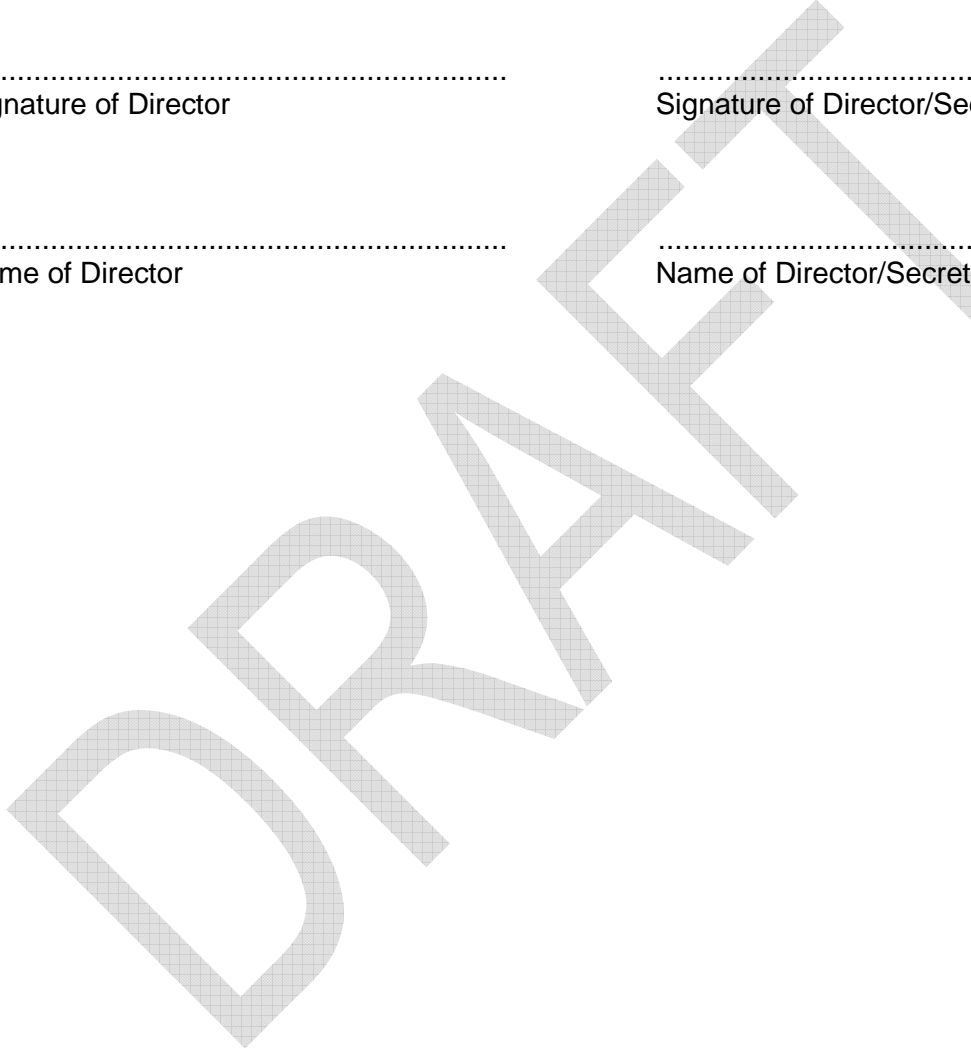
**EXECUTED by Woolwich Pty Limited** )  
**(ACN 608 231 787)** )  
in accordance with section 127(1) of the )  
Corporations Act: )

.....  
Signature of Director

.....  
Signature of Director/Secretary

.....  
Name of Director

.....  
Name of Director/Secretary



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**Part 2 (cont)**

The Northern Beaches Council by its authorised delegate pursuant to s.337 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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General Manager / Authorised Officer