

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND POSITIVE COVENANT INTENDED  
TO BE CREATED AND EASEMENTS TO BE RELEASED PURSUANT TO SECTION 88B OF THE  
CONVEYANCING ACT, 1919

Lengths are in metres

(Sheet 1 of ~~8~~ sheets)  
6

PART 1

DP270127

Subdivision covered by Council  
Clerk's Certificate No.  
of 48/98 or  
Plan of

Full name and address of  
the proprietor of the land:

ABBOTSFORD BAY TRADING COMPANY PTY  
LIMITED Suite 301, "The Bijou" 2A Rowntree  
Street, Balmain NSW 2041

Full name and address of  
Mortgagee of the land:

MACQUARIE BANK LIMITED  
20 Bond Street, Sydney NSW 2000

1. Identity of easement to be created and firstly  
referred to in the Plan: Easement for Services 2 Wide

SCHEDULE OF LOTS AFFECTED

<u>Lots Burdened</u>	<u>Lots Benefited</u>
24	Lots 1 and 23
23	Lots 1 and 24

2. Identity of easement to be created  
and secondly referred to in the  
Plan: Easement For Drainage of Water 2 Wide

SCHEDULE OF LOTS AFFECTED

<u>Lots Burdened</u>	<u>Lots Benefited</u>
23	Lots 1 and 24
24	Lots 1 and 23

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CONVEYANCING ACT, 1919

DP270127

(Sheet 2 of 6 sheets)

PART 1 (continued)

- |    |   |   |
|----|---|---|
| 3. | <u>Identity of easement<br/>thirdly referred to in the<br/>Plan</u> | Easement for Sewerage<br>Purposes<br>Var. Width |
|----|---|---|

SCHEDULE OF LOTS AFFECTED

<u>Lots Burdened</u>	<u>Authority Benefited</u>
24	Sydney Water Corporation

- |    |  |                   |
|----|--|-------------------|
| 4. | <u>Identity of Positive Covenant<br/>fourthly referred to in the<br/>Plan:</u> | Positive Covenant |
|----|--|-------------------|

SCHEDULE OF LOTS AFFECTED

<u>Lots Burdened</u>	<u>Authority Benefited</u>
24 but only that part designated "(B)" in the Plan	Sydney Water Corporation

PART 1(A)

- |    |   |   |
|----|---|---|
| 1. | <u>Identity of easement to be<br/>released and firstly referred to<br/>in the Plan:</u> | Easement for Services 2 Wide, firstly<br>referred to in DP 270127 |
|----|---|---|

SCHEDULE OF LOTS AFFECTED

<u>Lots Burdened</u>	<u>Lots Benefited</u>
Lot 3 in DP 270127 Lot 4 in DP 270127	Lots 1 and 4 in DP 270127 Lots 1 and 3 in DP270127

- |   |  |   |
|---|--|---|
| 2 | <u>Identity of Easement to be<br/>released and secondly referred to<br/>in the Plan:</u> | Easement to Drain Water 2 Wide, thirdly<br>referred to in DP 270127 |
|---|--|---|

SCHEDULE OF LOTS AFFECTED

<u>Lots Burdened</u>	<u>Lots Benefited</u>
Lot 3 in DP 270127 Lot 4 in DP 270127	Lots 1 and 4 in DP 270127 Lots 1 and 3 in DP 270127

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CONVEYANCING ACT, 1919

(Sheet 3 of 6 sheets)

DP270127

PART 2

1. TERMS OF EASEMENT FOR SERVICES 2 WIDE FIRSTLY REFERRED TO IN THE PLAN:

The terms of this easement are to be:

The meaning given to the expression "easement for services", as set out in Schedule 8, Part 11 ("Easement for services") of the Conveyancing Act, 1919 with the addition of the following terms:

- a. The cost of all work in respect of the construction, repair, maintenance, or replacement of the domestic services or of the surface of the Easement For Services is to be at the cost of the owner of the land benefited.
- b. In respect of Lot 24 herein burdened, the terms of this easement are subject to the provisions of the easement and positive covenant herein thirdly, and fourthly referred to respectively.
- c. The terms of this easement shall not be released, varied or modified without the prior written consent of Sydney Water Corporation

2. TERMS OF EASEMENT FOR DRAINAGE OF WATER 2 WIDE SECONDLY REFERRED TO IN THE PLAN:

The terms of this easement are to be:

The meaning given to the expression "easement for drainage of water", as set out in Schedule 8, Part 8 ("Easement for drainage of water") of the Conveyancing Act, 1919 with the addition of the following terms:

- a. The cost of all work in respect of the construction, repair, maintenance, or replacement of the domestic services or of the surface of the Easement for Drainage of Water is to be at the cost of the owner of the land benefited.
- b. In respect of Lot 24 herein burdened, the terms of this easement are subject to the provisions of the easement and positive covenant herein thirdly, and fourthly referred to respectively.
- c. The terms of this easement shall not be released, varied or modified without the prior written consent of Sydney Water Corporation

3. TERMS OF EASEMENT FOR SEWERAGE PURPOSES VAR. WIDTH THIRDLY REFERRED TO IN THE PLAN

An easement for Sewerage Purposes in the terms set out in Memorandum <sup>5</sup> 736747 filed in the Land Titles Office, amended as follows:

1. New clauses 1(c)(v) and 1(c)(vi) are inserted in the following terms:

- " 1 (c)(v) plant or allow to be planted in, on, within or upon the said land any trees, shrubs or plants
- 1 (c)(vi) install or lay or allow to be installed or laid in, over, on or under the said land any services above or below ground including without limitation electrical, telecommunications, gas, water, wastewater and stormwater pipes, conduits, cables, ducts and the like."

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND POSITIVE COVENANT INTENDED TO BE RELEASED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919

DP270127

(Sheet 4 of 6 sheets)  
6

PART 2 (Continued)

- 2. After the word "THAT" in clause 1(c) the words "subject to the provisions of the positive covenant herein fourthly referred to in the abovementioned plan ('the positive covenant')" shall be inserted.
- 3. After the word "AND" when first appearing in the first line on page 2 the words "except as provided in clause 1 of the terms of the positive covenant" shall be inserted and after the words "AND DECLARED that" in the fifth line on page 2 the words "nothing contained herein shall" shall be deleted and the words "except as provided in clause 1 of the terms of the positive covenant, these provisions shall not" shall be inserted in their place.

For the purposes of this Instrument, references within Memorandum 5736747 to 'the said land' means the site of the subject easement hereby created, and references to 'transferred' means the easement or rights created herein, in favour of the Authority benefited.

Name of authority empowered to release, vary or modify the easement thirdly referred to in the Plan

Sydney Water Corporation

4. TERMS OF POSITIVE COVENANT FOURTHLY REFERRED TO IN THE PLAN

With respect to the rights granted in favour of Sydney Water Corporation Limited ACN 063 270 640 ("the Corporation") pursuant to the Easement for Sewerage Purposes herein thirdly referred to in the abovementioned plan ('the easement'), the registered proprietor of the lot burdened by this covenant ('the proprietor' which expression where herein used shall be deemed to include the successors and assigns of the proprietor) DOTH HEREBY COVENANT with the Corporation, pursuant to Section 88E of the Conveyancing Act, 1919, as amended, that the proprietor WILL:

- 1) Where the Corporation has granted approval pursuant to Clause (1)(c) of the easement:
  - (a) bear all risk of and responsibility for any damage to the Corporation's works defined in the easement as the ('works') resulting or arising from anything done pursuant to, or in breach of, that approval; and
  - (b) bear all risk of and responsibility for any damage, however caused, to any property (real or personal) located within the easement notwithstanding that prior approval has been given by the Corporation pursuant to Clause (1)(c) of the easement.

Name of authority empowered to release, vary or modify the positive covenant fourthly referred to in the abovementioned plan.

Sydney Water Corporation

The Common Seal of ABBOTSFORD BAY TRADING COMPANY PTY LIMITED was hereunto affixed in accordance with its Articles of Association in the presence of:  
Date:

(Affix Seal clearly in the space below)

.....  
Director  
.....  
Secretary



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**DP270127**

(Sheet 5 of 6 sheets)

MACQUARIE BANK LIMITED ACN 008 583 543 )  
By its Attorneys who hereby state that at the time )  
of their executing this instrument they have no )  
notice of the revocation of the power of attorney <sup>4117 N. 78</sup> )  
registered in the Land Titles Office Book ~~4142~~ No. ~~421~~ )  
under the authority of which they executed this )  
instrument in the presence of : )

*[Signature]*  
M. J. SCHEEN  
.....  
*[Signature]*  
DAVID LOVE

*[Signature]*  
Witness: R. S. FERGUSON

**COMMUNITY LAND DEVELOPMENT ACT 1989  
CERTIFICATE OF COMMUNITY ASSOCIATION**

Approved Form

COMMUNITY ASSOCIATION DP 270127 HEREBY CERTIFIES THAT IT HAS:

1. ACCEPTED THE EASEMENT REFERRED TO IN THIS SECTION 88B INSTRUMENT BURDENING THE SAID LOTS AND BENEFITING ASSOCIATION PROPERTY, BEING LOT 1 IN DP 270127,
2. BY UNANIMOUS RESOLUTION, CONSENTED TO THE RELEASE OF THE EASEMENTS FIRSTLY AND SECONDLY REFERRED TO IN THE PLAN ( BENEATH THE WORD "RELEASE" ), and
3. BY UNANIMOUS RESOLUTION, CONSENTED TO THE SEVERANCE OF LOT 25 FROM THE COMMUNITY SCHEME,

**ATTESTATION**

The common seal of the Community Association DP 270127 was hereunto affixed:

on the 17TH day of NOVEMBER 1998  
in the presence of:

*[Signature]*  
X *[Signature]* (William John Fry) LYN GREER  
being the person authorised by Section 8 of the  
Community Land Management Act 1989  
to attest the affixing of the seal.



**DRUMMOYNE COUNCIL**

Dated: 1/10 1998. Application No. DA 48/98

Drummoyne Council

X *[Signature]*  
Authorised Person

(Sheet 6 of 6 sheets)

# DP270127

Signed for SYDNEY WATER CORPORATION  
By its attorneys

**STEPHEN RAYMOND COX**

.....~~JEFFREY THOMAS COLENZO~~.....  
who hereby state at the time of executing this  
instrument have no notice of the revocation of the  
Power of Attorney Registered No. ~~546~~ Book ~~4246~~  
under the Authority of which this instrument has  
been executed.


*Stephen Cox*  
.....  
.....

Subdivision Covered by  
Council Clerk's Certificate  
No 48/98.

Signature of Witness  
*Bramble*

Name of Witness  
MARTIN BRAMBLE

Address of Witness  
OF SYDNEY WATER.

REGISTERED  28-10-1999