

DP 270127

COVER SHEET FOR SECTION 88B INSTRUMENT

ATTENTION

As a result of a Community Plan of Subdivision which also contained a Section 88B Instrument this instrument now comprises separate documents registered on different dates.

Particulars of each document are as follows:-

Document No.	Plan/Instrument Registration Date	No. of Sheets in Plan	No. Sheets in Section 88B Inst.
Document 1	10.2.1997	6	8
DOCUMENT 2	28.10.1999	2	6

TOTAL NUMBER OF SHEETS OF SEC 88B FILMED
(INCLUDING COVER SHEET)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS
ON THE USE OF LAND INTENDED TO BE CREATED PURSUANT TO
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

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PART 1

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Subdivision covered by Council
Clerk's Certificate No
of of Lot 2 in DP

Full name and address of the
Proprietor of the Land:

Abbotsford Bay Trading Company
Pty Ltd, c/- Suite 301, The
Bijou, 2A Rowntree Street,
Balmain.

1. Identity of Easement or Easement for Services 2 wide
Restriction Firstly referred
to in abovementioned plan:

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority
Benefited

Lot 3	Lots 1 and 4
Lot 4	Lots 1 and 3
Lot 22	Lot 1

2. Identity of Easement or Easement for electricity
Restriction Secondly referred purposes and access 1WIDE & 5WIDE
to in abovementioned plan:

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority
Benefited

Lot 1	Energy Australia
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3. Identity of Easement or Easement to Drain Water 2 wide
Restriction Thirdly referred
to in abovementioned plan:

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority
Benefited

Lot 3	Lot 1 and 4
Lot 4	Lot 1 and 3

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4. Identity of Easement or Restriction Fourthly referred to in abovementioned plan: Easement to Drain Water 3 wide

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority Benefited

Lot 1

Drummoyne Council

5. Identity of Easement or Restriction Fifthly referred to in abovementioned plan: Easement to Drain Water 6 wide

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority Benefited

Lot 1

Drummoyne Council

Lot 8

Drummoyne Council

6. Identity of Easement or Restriction Sixthly referred to in abovementioned plan: Right of Access VAR. WIDTH.

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority Benefited

Lot 22

Lot 1

7. Identity of Easement or Restriction Seventhly referred to in abovementioned plan: Restriction as to User

Schedule of Lots etc. Affected

Lots Burdened

Lots, Name of Road or Authority Benefited

All lots other than Lot 1

Drummoyne Council



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8. Identity of Easement or Restriction Eighthly referred to in abovementioned plan: Positive Covenant

Schedule of Lots etc. Affected

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
Lot 1	Drummoyne Council

9. Identity of Easement or Restriction Ninthly referred to in abovementioned plan: Easement for access and recreation purposes

Schedule of Lots etc. Affected

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
Lot 1	Drummoyne Council

10. Identity of Easement or Restriction Tenthly referred to in abovementioned plan: Easement for access and parking 2.5 WIDE

Schedule of Lots etc. Affected

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
Lot 1	Drummoyne Council

11. Identity of Easement or Restriction Eleventhly referred to in abovementioned plan: Drainage of sewage over existing line of pipes

Schedule of Lots etc. Affected

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
Lot 1	Lot 20
Lot 17	Lot 20

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PART 2

1. Terms of Easement

Firstly referred to Easement for Services 2 wide

Easement for Services as set out in Schedule 8 Part 11 of the Conveyancing Act, 1919 (as amended) and including the following term:

4. The cost of all work in respect of the construction, repair, 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

2. Terms of Easement

Secondly referred to Easement for Electricity Purposes and access


Right of Access as set out in Schedule 4 Part 11 of the Conveyancing Act 1919 (as amended) together with the right to park vehicles upon the right of carriageway and together with the following rights:

Full right leave liberty and licence for the authority benefited (herein referred to as the "Grantee") its agents servants and workmen to erect construct and place repair renew inspect maintain and remove electricity substation premises and lay down erect construct and place repair renew inspect maintain and remove underground electric mains cables and other apparatus for the transmission of electric current and for purposes incidental thereto through under and over that part of the lot burdened and affected by the easement (herein referred to as the "easement") AND ALSO the free and uninterrupted passage of electricity and apparatus thereto appertaining through under and over the easement and the said electricity substation and electric mains when constructed.

TOGETHER WITH power for the Grantee its servants agents and workmen either with or without vehicles of all descriptions to enter into and upon the easement or any part thereof for the purposes aforesaid or any of them and to make all necessary excavations for cables or other apparatus in the easement or any part thereof.

AND TOGETHER WITH full right leave liberty and licence to cut and trim tree roots branches or other growths and foliage which now or at any time hereafter may overhand or encroach on or are now growing or may grow in or on the easement.

PROVIDED THAT the Grantee shall not permit or suffer any person other than its officers servants agents and workmen aforesaid or any other person authorised by them or any of them to enter in or upon the easement.

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AND PROVIDED FURTHER that except where the Grantee in the course of exercising its rights hereunder removes damages breaks down or destroys any existing fence or fences on the easement the Grantee shall not be under any obligation or in any ways be bound to erect place or maintain any fence or fences on the boundaries or any other part or parts of the easement.

AND the Registered Proprietor doth hereby for itself and other the owner or owners from time to time of the land comprised in the said Certificate of Title covenant with the Grantee that it will not do or knowingly suffer to be done any act or thing which may injure or damage the said electricity substation and cables and other apparatus or interfere with the free flow of electric current through under and over the easement AND that if any such damage or injury be done or interference be made the said Registered Proprietor will forthwith pay the cost to the Grantee of properly and substantially repairing and making good all such injury or damage and restoring the free flow of electric current as aforesaid.

AND the Grantee doth hereby covenant with the Registered Proprietor its successors and assigns that it will save harmless and indemnify it or them from and against any and all loss and damage whatsoever occasioned by the negligent use or abuse of electric current or cables and other apparatus for the transmission of electric current or of the rights hereby created by any person or persons employed by or acting or claiming under the Grantee and that the Grantee will at its own costs and charge pay for all damage and injury arising to the Registered Proprietor or to any person or persons in consequence of any breach of non-observance of this covenant.

AND FURTHER the Registered Proprietor doth hereby for itself and other the owner or owners from time to time of the land affected by the easement covenant with the Grantee that it will not without the consent of the Grantee alter or permit to be altered the existing levels of the easement nor will it without the like consent erect or permit to be erected any structure on the above or below the easement.

3. Terms of Easement

Thirdly referred to Easement for Drainage of Water 2 wide

Easement for Drainage of Water as set out in Schedule 8 Part 8 of the Conveyancing Act, 1919 (as amended) and including the following term:

3. The cost of all work in respect of the construction, repair, or replacement of any pipes channels ditches or equipment or of the surface of the Easement for drainage of water is to be at the cost of the owner of the land benefited

REGISTERED



210.2.1997

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4. Terms of Easement

Fourthly referred to Easement for Drainage of Water 3 wide

Easement for Drainage of Water as set out in Schedule 7 Part 4A of the Conveyancing Act, 1919 (as amended) and including the following term:

3. The cost of all work in respect of the construction, repair, or replacement of any pipes channels ditches or equipment or of the surface of the Easement for drainage of water is to be at the cost of the authority benefited

5. Terms of Easement

Fifthly referred to Easement for Drainage of Water 6 wide

Easement for Drainage of Water as set out in Schedule 7 Part 4A of the Conveyancing Act, 1919 (as amended) and including the following term:

3. The cost of all work in respect of the construction, repair, or replacement of any pipes channels ditches or equipment or of the surface of the Easement for drainage of water is to be at the cost of the authority benefited

6. Terms of Easement

Right of Access

Sixthly referred to

Right of Access as set out in Part 14 of Schedule 8 of the Conveyancing Act, 1919 including the following term:

4. The cost of all work in respect of the construction, repair, or replacement of the surface of the right of access is to be at the cost of the owner of the land benefited.

7. Terms of Easement

Restriction as to User

Seventhly referred to

A Plan of Subdivision of the lot will not be lodged unless it is accompanied by an instrument in accordance with Section 88B of the Conveyancing Act, 1919 setting out a restriction as to user requiring any construction on a lot in that subdivision to be in accordance with the development consent in Development Application No 109/94.

This restriction shall not be extinguished or altered except with the consent of Drummoyne Council

8. Terms of Easement

Positive Covenant

Eighthly referred to

The Proprietor of the Lot burdened covenants with Drummoyne Council ("Authority Benefited") under Section 88E of the Conveyancing Act, 1919 to perform the following obligations in respect of that part of the Lot Burdened shown in the abovementioned plan as "Public Open Space Area":

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- a) preserve the Public Open Space Area as a foreshore park suitable for use by members of the public;
- b) despite Section 88F(2) of the Conveyancing Act, 1919, permit the Authority Benefited to use the Public Open Space Area as if it were "public land" as that term is defined in the dictionary to the Local Government Act, 1993 including exercising the powers under Section 24 of the Act in respect of the Public Open Space Area;
- c) properly maintain the Public Open Space Area and keep any structure, retaining walls or landscaping features in a state of good and serviceable repair and regularly, as appropriate, mow, weed, fertilise and replace lawn, plants and trees;
- d) comply with its obligations under the law as owner of the land including without limitation, the provisions of the Community Land Management Act, 1989 and the management statement registered with the abovementioned plan;
- e) prior to carrying out any works or erecting any structures on the land, obtain the consent of the Authority Benefited which application for consent the Authority Benefited may deal with as the beneficiary under the covenant and not as consent authority under the Local Government Act, 1993 or the Environmental Planning and Assessment Act, 1979 and which consent may be withheld if the works or structure proposed would, in the reasonable opinion of the Authority Benefited, detrimentally affect suitability of the Public Open Space Area as a foreshore park suitable for use by members of the public; and
- f) effect public liability insurance with a reputable insurer in accordance with the Community Land Management Act, 1989 but in the joint names of the Authority Benefited and the Proprietor of the Lot Burdened for an amount of not less than \$10,000,000 for each occurrence or such other amount as the Authority Benefited may reasonably require from time to time.

This positive covenant shall not be extinguished or altered except with the consent of Drummoyne Council.

9. Terms of Easement
Ninethly referred to

Easement for access and
recreation purposes

Full, free and unimpeded right for the Authority Benefited and all persons authorised by it from time to time including, without limitation, any member of the public so authorised to go, pass and repass over and remain for the purposes of recreation and enjoyment on the part of the Lot Burdened shown in the abovementioned plan as "Public Open Space Area" as if the land were "public land" as defined in the dictionary of the Local Government Act, 1993 together with the right (which right constitutes a covenant between the proprietor of the land burdened and the Authority Benefited) for the Authority Benefited to exercise the powers under Section 24 of that Act in respect of the Public Open Space Area.

This easement shall not be extinguished or altered except with the consent of Drummoyne Council



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10. Terms of Easement
Tenthly referred to

Easement for access and parking

Full free and unimpeded right for the Authority benefited and all persons authorised by it from time to time including, without limitation, any member of the public to park a vehicle within the 16 car parking spaces designated on the plan registered with this instrument parallel to the Open Access Way, in conjunction with visiting the approved development and or the "Public Open Space Area". This easement shall not be extinguished or altered except with the consent of Drummoyne Council

11. Terms of Easement
Eleventhly referred to

Drainage of Sewage over existing line of pipes

Easement for Drainage of Sewage as set out in Schedule 8 Part 7 of the Conveyancing Act, 1919 (as amended) and including the following term:

3. The cost of all work in respect of the construction, repair, or replacement of any pipes channels ditches or equipment or of the surface of the Easement for Drainage of Sewage is to be at the cost of the owner of the land benefited

Signed by
and
in the presence of:

The COMMON SEAL of
ABBOTSFORD BAY TRADING COMPANY
PTY LIMITED
A.C.N. 065 116 154
was affixed in accordance with its articles
of association in the presence of:

[Handwritten Signature]
Director
[Handwritten Signature]
Secretary



Approved by the Drummoyne Council

J Clark

Town Clerk Authorised Person

MACQUARIE BANK LIMITED, ACN 008 583 542 by

[Handwritten Signatures]

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 registered in Land Titles Office Book 4142 No. 421 under authority of which they execute this instrument in the presence of:-

[Handwritten Signature]
Signature of Witness

REGISTERED 20 10-2-1997