

**Instrument setting out Terms of Easements 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.**

(Sheet 1 of 9 Sheets)

**Plan:** Plan of Subdivision of Lot 200 in DP1126777,  
Lot 10 in DP712194, Lot 103 in DP702011,  
Lot 41 in DP831159 and Lot 1 in DP854796  
Covered by Subdivision Certificate No.  
Dated

**Full Name and Address  
Of the Owner/s of the Land:** Lot 103 DP702011  
Maboli Pty Limited  
Lot 41 DP831159  
Maboli Pty Limited  
Lot 1 DP854796  
Owfrest Pty Ltd  
Lot 200 DP1126777  
Owfrest Pty Ltd  
Lot 10 DP712194  
Gregory Holdings Pty Limited

c/- Unit 1, 2 Snapperman Lane  
PALM BEACH NSW 2108

**PART 1 (Creation)**

<b>Number of item shown in the intention panel on the Plan</b>	<b>Identity of easement, profit à prendre, restriction on the use of land or positive covenant to be created and referred to in the Plan</b>	<b>Burdened lot(s) or parcel(s)</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities</b>
1	Easement to Drain Water 1.2 Wide (A)	4 5 6 7 8 9 15 16 17 20 21 24	2 & 3 5 to 18 inclusive 6 to 18 inclusive 7 to 13 inclusive 8 to 13 inclusive 9 to 10 inclusive 10 14, 16 to 18 inclusive 17 & 18 18 19 19 & 20 25 to 30 inclusive and 36 to 41 inclusive

Approved by Sutherland Shire Council

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Authorised Officer

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(Sheet 2 of 9 Sheets)

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 Covered by Subdivision Certificate No.  
 Dated

Number of item shown in the intention panel on the Plan	Identity of easement, profit à prendre, restriction on the use of land 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
		25	26 to 30 inclusive
		26	and 36 to 41 inclusive
		27	27 to 30 inclusive and
		28	Lot 36
		29	28 to 30 inclusive
		32	29 & 30 & 36
		33	30 & 36
		34	31
		38	31, 32, 34, 35
		42	35
			36
			24 to 30 inclusive
			36 and 38 to 41
			inclusive
			43 to 48 inclusive
		43	44 to 48 inclusive
		44	45 to 48 inclusive
		45	46 to 48 inclusive
		46	47 & 48
		47	48
		50	49
		51	49 to 50 inclusive
		52	49 to 51 inclusive
		53	49 to 52 inclusive
		54	49 to 53 inclusive
2	Easement to Drain Water Variable Width	1 Whole of Lot	2 to 30 inclusive and 36 to 48 inclusive

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(Sheet 3 of 9 Sheets)

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3	Easement to Drain Water Variable Width (B)	3 12 22  23  39 40 41 54	2 11 and 13 23 to 30 inclusive and 36 to 48 inclusive 24 to 30 inclusive and 36 to 48 inclusive 36 to 38 inclusive 36 to 39 inclusive 36 to 40 inclusive 55
4	Easement for Drainage of Water 3 Wide (C)	13  6	Sutherland Shire Council  Sutherland Shire Council
5	Easement for Drainage of Water Variable Width (G)	Whole of Lot 1	Sutherland shire Council
6	Positive Covenant No.1	Site (D1) Part Lot 1	Sutherland Shire Council
7	Positive Covenant No.2	Lot 1 Site (D2)	Sutherland Shire Council
8	Restriction on the Use of Land Site (E1), (E2) & (E3)	Lots 3, 4, 46, 47 & 57	Sutherland Shire Council
9	Positive Covenant No.3 Site (F)	Lots 19-23 inclusive Lots 42-48 inclusive	Sutherland Shire Council Sutherland Shire Council

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<b>Number of item shown in the intention panel on the Plan</b>	<b>Identity of easement, profit à prendre, restriction on the use of land or positive covenant to be created and referred to in the Plan</b>	<b>Burdened lot(s) or parcel(s)</b>	<b>Benefited lot(s), road(s), bodies or Prescribed Authorities</b>
10	Restriction on the Use of Land	Each Lot	Every Other Lot
11	Restriction on the Use of Land	Each Lot	Every Other Lot
12	Positive Covenant No.4	6 7 13 14	Sutherland Shire Council Sutherland Shire Council Sutherland Shire Council Sutherland Shire Council

**PART 2 (Terms)**

**1-3 TERMS OF EASEMENT TO DRAIN WATER 1.2 WIDE (A) NUMBERED 1, EASEMENT TO DRAIN WATER VARIABLE WIDTH NUMBERED 2 & EASEMENT TO DRAIN WATER VARIABLE WIDTH (B) NUMBERED 3 IN THE ABOVEMENTIONED PLAN**

An Easement to Drain Water within the meaning of Part 3 Schedule 8 of the Conveyancing Act 1919 as amended regarding the lots benefited.

**4. TERMS OF EASEMENT FOR DRAINAGE OF WATER 3.0 WIDE (C) NUMBERED 4 IN THE ABOVEMENTIONED PLAN**

An Easement for Drainage of Water within the meaning of Part 7 Schedule 4A of the Conveyancing Act 1919 as amended regarding the lots benefited.

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**5. TERMS OF EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH (G) NUMBERED 5 IN THE ABOVEMENTIONED PLAN**

An Easement for Drainage of Water within the meaning of part 7 Schedule 4A of the Conveyancing Act 1919 as amended regarding the lots benefited.

**6. TERMS OF POSITIVE COVENANT NO.1 SITE (D1) NUMBERED 6 IN THE ABOVEMENTIONED PLAN**

The Owners of Lot 1 hereby burdened shall covenant to Sutherland Shire Council and its successors not to use the site of the detention basin structure for any other use except as permitted by the development consent creating the allotments specifically with respect to the provision and maintenance of the detention facility delineated as Site (D1) on the plan of subdivision.

**7. TERMS OF POSITIVE COVENANT NO.2 SITE (D2) NUMBERED 7 IN THE ABOVEMENTIONED PLAN**

The Owners of Lot 1 hereby burdened shall covenant to Sutherland Shire Council and its successors not to use the site of the stormwater treatment facility located within Site (D2) for any other use except as permitted by the development consent creating the allotment, specifically in respect to the provision and maintenance of this stormwater treatment facility.

**8. TERMS OF RESTRICTION ON THE USE OF LAND SITE (E1) AND (E2) NUMBERED 8 IN THE ABOVEMENTIONED PLAN**

(a) No building construction of any kind, clearing, rock removal, excavation, alteration of natural features or soil levels shall occur within a seven (7) metre radius of the large Angophora Costata (Tree 1818) within Lot 3 Site (E1) shown upon the Tree Retention Plan that formed part of the development consent for the subdivision.

(b) No building construction of any kind, clearing, rock removal, excavation, alteration of natural features or soil levels shall occur within a five (5) metre radius from the trunk of the large Angophora Costata (Tree No.1673) within Lot 57 Site (E2) shown on the Tree Retention Plan that formed part of the development consent for the subdivision.

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(c) No building construction of any kind, clearing, rock removal, excavation, alteration of natural features or soil levels shall occur within a four (4) metre radius from the trunk of the large Angophora Costata (Tree No.1787) within Lot 46 Site (E3) shown on the Tree Retention Plan that formed part of the development consent for the subdivision.

**9. TERMS OF POSITIVE COVENANT NO.3 SITE (F) NUMBERED 9 IN THE ABOVEMENTIONED PLAN**

The landowners of burdened lots shall establish and maintain the area of their property marked Site (F) on the abovementioned plan as an Inner Protection Area for Bushfire Protection as defined in Planning for Bushfire Protection 2006 prepared by NSW Rural Fire Service. The Asset Protection Zone shall be permanently maintained by the registered proprietors of the burdened lots.

**10. TERMS OF RESTRICTION ON THE USE OF LAND NUMBERED 10 IN THE ABOVEMENTIONED PLAN**

For the benefit of any adjoining land owned by the abovenamed proprietor but only during the ownership thereof by the abovenamed proprietor its successors and assigns other than transferees on sale no fences shall be erected on the land hereby burdened to divide same from such adjoining land without the consent of the abovenamed proprietor but such consent shall not be unreasonably withheld if such fence is erected without expense to the abovenamed proprietor and in favour of any person dealing with the transferee on sale such consent shall be deemed to have been given in respect of every such fence for the time being erected.

**11. TERMS OF RESTRICTION ON THE USE OF LAND NUMBERED 11 IN THE ABOVEMENTIONED PLAN**

No fences shall be erected upon the land hereby burdened unless fences are made from non-combustible materials acceptable for use in bushfire prone land by Sutherland Shire Council.

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**12. TERMS OF POSITIVE COVENANT NO.4 NUMBERED 12 IN THE ABOVEMENTIONED PLAN**

- (a) Upon the lots hereby burdened the walls of any future dwelling or any future structure adjoining the Easement for Drainage of Water 3 Wide designated "C" shall be designed to withstand all necessary forces should excavation be required within the easement down to the existing pipe invert levels. Certification to this effect shall be provided by an Accredited Certifier and this shall accompany the Construction Certificate for the dwelling or future structure.
- (b) Upon the lots hereby burdened all footings of any future dwelling or future structure within 2 metres of the Easement for Drainage of Water 3 Wide designated "C" shall be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert level or, alternatively, founded on sound rock. Certification to this effect shall be provided by an Accredited Certifier and this shall accompany the Construction Certificate.

**Name of the Authority empowered to release, vary or modify Easement to Drain Water 1.2 Wide (A) numbered 1, Easement to Drain Water Variable Width numbered 2, Easement to Drain Water Variable Width (B) numbered 3, Restriction on Use of Land numbered 10 and Restriction on the Use of Land numbered 11 in the abovementioned plan.**

Sutherland Shire Council.

Approved by Sutherland Shire Council

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The Common Seal of )  
**MABOLI PTY LIMITED** )  
(ACN 001 951 891) )  
was hereto affixed by )  
Resolution of the Directors )  
in the presence of: )

.....  
Secretary

.....  
Director

The Common Seal of )  
**OWFREST PTY LIMITED** )  
(ACN 001 947 744) )  
was hereto affixed by )  
Resolution of the Directors )  
in the presence of: )

.....  
Secretary

.....  
Director

Approved by Sutherland Shire Council

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Dated

The Common Seal of )  
**GREGORY HOLDINGS PTY LTD** )  
(ACN 000 385 580) )  
was hereto affixed by )  
Resolution of the Directors )  
in the presence of: )

.....  
Secretary

.....  
Director

Approved by Sutherland Shire Council

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Authorised Officer