

INSTRUMENT SETTING OUT TERMS OF RIGHT OF CARRIAGEWAYS, EASEMENTS, RESTRICYIONS ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919.

Lengths are in metres.

(sheet 1 of 5 sheets)

DP1039441

Plan of Subdivision of Lot 14 in DP 23390 covered by Subdivision Certificate No. 10441

Full name and address of proprietors of the land: **Edrose Pty Limited**
 597 Church Street
 North Parramatta, 2151

PART 1 (Creation)

	Identity of Easement, profit a pendre, restriction or positive covenant to be created or referred to in the plan	Burdened lots or parcels	Benefited lots, roads, Bodies or Prescribed Authorities
1.	Easement for Services 1.0 wide	141	142
2.	Easement to Drain Water 1.3 Wide	141	142
3.	Easement for Services 1.3 Wide	141	142
4.	Easement to Drain Water 6.4 Wide	141	142
5.	Right of Carriageway 1.56 Wide and Variable Width	141	142
6.	Easement for Services 1.56 Wide and Variable Width	141	142
7.	Easement to Drain Water 1.56 Wide and Variable Width	141	142
8.	Right of Carriageway 1.44 Wide	142	141
9.	Restriction on the use of land under Section 88E of the Conveyancing Act, 1919	141	Warringah Council
10.	Restriction on the use of land under Section 88E of the Conveyancing Act, 1919	141	Warringah Council
11.	Positive Covenant under Section 88E of the Conveyancing Act, 1919	141 142	Warringah Council
12.	Positive Covenant under Section 88E of the Conveyancing Act, 1919	141	Warringah Council

A. F. M

WARRINGAH COUNCIL

[Signature]

 Authorised Person

(Sheet 2 of 5 Sheets)

DP1039441

Plan of Subdivision of Lot 14 in DP 23390 covered by Subdivision
Certificate No. 10441

Full name and address of proprietors of the land: Edrose Pty Limited
597 Church Street
Parramatta, 2151

PART 2 (Terms)

1. Terms of right of carriageway fifthly referred to in the above-mentioned Plan

A right of carriageway within the meaning given to that expression by Schedule 8 Part 1 of the Conveyancing Act 1919 TOGETHER WITH the following addition thereto:-

A partial restriction in the height in the area shown as "Height restricted area variable width limited in height to RL 114.27 AHD" shown 'x' on the plan.

2. Terms of restriction on use ninthly referred to in the above-mentioned Plan.

Vehicular access to the Lot hereby burdened from Ferguson Street is to be by way of the right of carriageway partly affecting the same and not across any other part of the frontage of the said Lot.

3. Terms of restriction on use tenthly referred to in the above-mentioned Plan.

The registered proprietor covenants as follows with Warringah Council (council) in respect to the structure erected on the land described as "on-site stormwater detention system" (which expression includes all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater) shown on plans approved by the Council No. E51152 (hereinafter called "the system").

The registered proprietors covenant with the Council that they will not:-

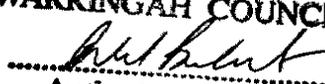
- I. Do any act, matter or thing which would prevent the structure and works from operating in an efficient manner.
- II. Make any alterations or additions to the structure and works or allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the structure and works without the express written consent of the authority.
- III. This covenant shall bind all persons who claim under the registered proprietors as stipulated in section 88E(5) of the Act.

For the purpose of this covenant:

Structure and works shall mean the on-site stormwater detention system constructed on the land as detailed on the plans approved by Council No. E51152 including all gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater on the land.

The Act shall mean the Conveyancing Act 1919.

A. F.M

WARRINGAH COUNCIL

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Authorised Person

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DP1039441

Plan of Subdivision of Lot 14 in DP 23390 covered by Subdivision
Certificate No. 10441

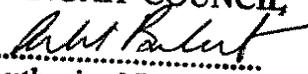
Full name and address of proprietors of the land: Edrose Pty Limited
597 Church Street
Parramatta, 2151

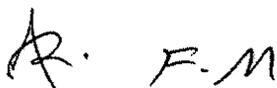
PART 2 (continued)

4. Terms of positive covenant eleventhly referred to in above-mentioned Plan.

The Registered Proprietors covenant with Warringah Council (council) that they will maintain and repair the structure and works erected on the land in accordance with the following terms and conditions:

- I. The Registered Proprietor will:-
 - (a) keep the structure and works clean and free from silt, rubbish, and debris,
 - (b) maintain and repair at the sole expense of the Registered Proprietors the whole of the structure and works so that it functions in a safe and efficient manner,
- II. For the purpose of ensuring observance of the covenant the Council may by its servants or agents at any reasonable time of the day and upon giving to the person against whom the covenant is enforceable not less than two days notice (but at any time without notice in the case of an emergency) enter the land and view the condition and state of construction maintenance or repair of the structure and works on the land.
- III. By written notice the Council may require the Registered Proprietors to attend any matter and to carry out such work within any such time as the Council may require to ensure the proper and efficient performance of the structure and works and to that extent section 88F(2) (a) of the Act is hereby agreed to be amended accordingly.
- IV. Pursuant to section 88F(3) of the Act the Council shall have the following additional powers pursuant to this covenant:
 - (i) 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 applicant or its authorised agents may enter the land with all necessary equipment and carry out any work which the Council in its discretion considered reasonable to comply with the said notice referred to in I hereof.

WARRINGAH COUNCIL

.....
Authorised Person



DP1039441

(Sheet 4 of 5 Sheets)

PLAN: Plan of Subdivision of Lot 14 in DP 23390 covered by Subdivision Certificate No. 10441

Full name and address of proprietors of the land: Edrose Pty Limited
597 Church Street
Parramatta, 2151

PART 2 (continued)

- (ii) The Council may recover from the Registered Proprietor in a Court of competent jurisdiction:
- a) any expense reasonably incurred by it exercising its powers under sub-paragraph I hereof. Such expense shall include reasonable wages for the Councils own employees engaged in effecting the said work, supervising the said work and administering the said work together with costs, reasonably estimated by the Council for the use of machinery, tools and equipment in conjunction with the said work
 - (b) legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs 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.
- V. This covenant shall bind all persons who claim under the Registered Proprietors as stipulated in section 88E(5) of the Act.

For the purposes of this covenant:

Structure and works shall mean the on-site stormwater detention system as detailed on the plans approved by Council No: E51152 including all gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater on the land.

The Act shall mean the Conveyancing Act 1919.

5. Terms of positive covenant twelfthly referred to in above-mentioned Plan.

Upon demolition of the dwelling on lot 141 the registered proprietor of the lot burdened will widen the right of carriageway fifthly referred to in the above-mentioned plan to 2.06 metres to benefit lot 142.

A. F.M.

WARRINGAH COUNCIL
[Signature]
Authorised Person

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(Sheet 5 of 5 Sheets)

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PART 2 (continued)

NAME OF AUTHORITY empowered to release, vary or modify the restrictions eighthly and ninthly referred to and the positive covenant tenthly referred to in the above-mentioned plan:
Warringah Council

Date:

The common seal of Edrose Pty Limited was hereunto affixed by the authority of the Board of Directors in the presence of:

Amudh
.....
Director FARSHAD KAZAN



F. S. Milani
.....
Secretary FERESHTEH SADEGH ZADEH
DIRECTOR MILANI

SIGNED for and on behalf of Westpac Banking Corporation
ABN 007 487 141
Under Power of Attorney No. *4224* Book 332
by *Raymond Timms*
RAYMOND TIMMS
Office N.S.W. Loan Centre
* Supervisor

Robert Andrew
.....
Authorised Officer, Warringah Council

its duly authorised Attorney who is personally known to me:
Piri McKenzie
PIRI MCKENZIE
.....
11/1 St. Concord West, N.S.W.

REGISTERED  15-4-2002