

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

Lengths are in metres

Sheet 1 of 11 Sheets

Plan: **DP1241144**

Plan of Subdivision of Lot 102 in DP1227014
Covered by Subdivision Certificate

No Of

Full name and address of
the proprietors of the land:

Sunshine Property Developers Pty Ltd
ACN: 606 344 101
2/91 George Street
Parramatta NSW 2150

**PART 1
(Creation)**

Number of item shown in the intention panel on the plan	Identity of easement, restriction or positive covenant to be created and referred to in the plan	Burdened lot or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
1.	Easement to Drain Water 1.5 Wide (A)	10	11 – 16 inclusive & Camden Council
		11	12 – 16 inclusive & Camden Council
		12	13 – 16 inclusive & Camden Council
		13	14 - 16 inclusive & Camden Council
		14	15 & 16 & Camden Council
		15	16 Camden Council
		23	24 – 30 inclusive & Camden Council
		24	25 – 30 inclusive & Camden Council
		25	26 – 30 inclusive & Camden Council
		26	27 – 30 inclusive & Camden Council

Approved by Camden Council

Authorised Person

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1.	Easement to Drain Water 1.5 Wide (A) (continued)	27	28 – 30 inclusive & Camden Council
		28	29 - 30 inclusive & Camden Council
		29	30 & Camden Council
2.	Easement for Access, Maintenance & Overhang 0.9 Wide (B)	1	2
		2	3
		3	4
		4	5
		5	6
		6	7
		7	8
		10	9
		11	10
		12	11
		13	12
		14	13
		15	14
		16	15
		19	20
		20	21
		21	22
		22	23
		25	24
		26	25
		27	26
		28	27
		33	34
		34	35
		35	36
		36	37
3.	Easement to Drain Water 9 Wide (C)	8, 9, 23 & 24	Camden Council
4.	Easement for Services 9 Wide (D)	8, 9, 23 & 24	Camden Council
5.	Right of Carriageway Variable Width (E)	1, 8, 9, 16, 23 & 24	Camden Council

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Sheet 3 of 11 Sheets

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6.	Restriction on the Use of Land	1-37 inclusive	Camden Council
7.	Easement to Drain Water (Whole Lot)	6 & 7	Camden Council
8.	Restriction on the Use of Land	6 & 7	Camden Council
9.	Positive Covenant	6 & 7	Camden Council
10.	Restriction on the Use of Land	1-37 inclusive	Camden Council

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Sheet 4 of 11 Sheets

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**PART 2
(Terms)**

TERMS OF EASEMENTS NUMBERED 1 IN THE ABOVE MENTIONED PLAN

An Easement in terms pursuant to Part 3 of Schedule 8 of the Conveyancing Act 1919
as amended

TERMS OF EASEMENT NUMBERED 2 IN THE ABOVEMENTIONED PLAN

- 1.1 The owner of the Lot benefitted must;
- (a) With prior reasonable notice give to the owner or the occupier of the lot burdened, to use the easement site (including any roof structure of the lot burdened) for the purpose of carrying out necessary work (including construction, maintenance and repair) on:
 - (i) The lot benefitted or overhang structures within the easement site;
 - (ii) Any structure constructed or to be constructed by or for the owner of the lot benefitted, which cannot otherwise be reasonably carried out from within the lot benefitted.
 - (b) Do anything reasonably necessary for that purpose including:
 - (i) Entering onto the lot burdened;
 - (ii) Taking anything onto the lot burdened for the works;
 - (iii) Erection of any temporary scaffolding;
 - (iii) Carrying out the necessary works.
- 1.2 In exercising the rights under this Clause 1, the owner of the lot benefitted must;
- (a) Ensure that all work done on the lot benefitted or overhang structures thereof is done properly and is carried out as quickly as practicable;
 - (b) Cause as little inconvenience to the owner and or occupier of the lot burdened;
 - (c) Cause as little damage as is practicable to the lot burdened and any improvement on it;
 - (d) Restore the lot burdened as nearly as is practicable to its former condition; and
 - (e) Make good any collateral damage.
- 1.3 The owner of the lot benefitted indemnifies the owner of the lot burdened against any damage, injury, cost, expense liability, claim, suits or other actions arising from the exercise of their rights under this easement.
- 1.4 the owner of the lot burdened must not place any obstruction/s within the easement site or erect any building or other structure of any kind on or over the easement site other than any eaves and/or gutter, meter boxes and/or roof structure attached to any dwelling or garage that has been granted development approval by Liverpool City Council.

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Sheet 5 of 11 Sheets

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TERMS OF EASEMENT NUMBERED 3 IN THE ABOVE MENTIONED PLAN

An easement in Terms pursuant to Part 11 of Schedule 8 of the Conveyancing Act 1919 as amended

TERMS OF EASEMENT NUMBERED 4 IN THE ABOVE MENTIONED PLAN

An easement in Terms pursuant to Part 3 of Schedule 8 of the Conveyancing Act 1919 as amended.

TERMS OF EASEMENT NUMBERED 5 IN THE ABOVE MENTIONED PLAN

An easement in Terms pursuant to Part 14 of Schedule 8 of the Conveyancing Act 1919 as amended modified with the following additions:

- a) The easement is a temporary access to an adjoining Public Road will have the same status as a Public Road in accordance with the definition of a "public road" under the Roads Act 1993.
- b) The easement site is made accessible to the public.
- c) The easement can be extinguished upon the dedication to the public of the abutting proposed road.

TERMS OF RESTRICTION NUMBERED 6 IN THE ABOVE MENTIONED PLAN

- 1. No residential building or buildings shall be erected on any lot burdened having a total floor area of less than 120m
- 2. No garage outbuildings or other structures shall be erected or be permitted to remain on any lot burdened unless erected concurrently with or subsequently to the erection of a residential building.
- 3. No existing dwelling house or building or part thereof shall be partly or wholly moved to or placed and re-erected upon or re-constructed on or be permitted to remain on any lot burdened.
- 4. No building or any part thereof shall be erected or be permitted to remain on any lot burdened unless constructed entirely of new materials
- 5. No building or buildings shall be erected or be permitted to remain erected on any lot burdened other than with external walls of brick and/or brick veneer and/or stone and/or

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Sheet 6 of 11 Sheets

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No Of

concrete and/or glass and/or timber and/or hardiplank or similar product. No building or buildings shall be erected or permitted to remain erected on any lot burdened having a roof other than clay tiles, cement tiles, slate or non reflective surface corrugated iron. All roofing materials shall be black or shades of grey only.

6. No vehicle of any make or kind having a tare weight exceeding 5 tonnes shall be garaged, housed, parked, serviced or mechanical repairs carried out thereon or allowed to remain on any lot burdened except where such vehicles are being used for the delivery of goods or purposes of construction of any improvement on any lot burdened.
7. No fence shall be erected or permitted to remain on any lot hereby burdened unless the fencing is of a timber lapped and/or lapped and capped construction or Colorbond fence provided any Colorbond fence is of Colorbond colours Grey Ridge, Teatree or Riverland only.
8. No fence shall be erected on each lot burdened to divide it from any adjoining land owned by the abovenamed proprietors without the consent of the abovenamed proprietors but such consent shall not be withheld if such fence is erected without expense to the abovenamed proprietors provided that this restriction shall remain in force only during such time as the abovenamed proprietors are the Registered Proprietors of any land and shall bind the adjoining owner of such land successive owners and assigns of each lot burdened.
9. No driveway shall be constructed on any lot burdened unless its surface is comprised of faux or stamped concrete or pavers or as approved by Sunshine Property Developers Pty Ltd or its assigns and unless the driveway construction is undertaken prior to practical completion of the main building.
10. No dwelling shall be erected or permitted to remain on any lot burdened unless the area between the building line and the front boundary of the lot burdened is turfed.
11. No release variation or modification of these restrictions shall be made unless the cost and expense in all respects is borne by the person or persons requesting same.

TERMS OF RESTRICTION NUMBERED 7 IN THE ABOVE MENTIONED PLAN

The Proprietor of the burdened lot shall not:

- (a) Make alterations to the ground surface levels, grates and or pits within the site of the drainage easement and limits the fencing which may cross the easement to an open form fencing.

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Sheet 7 of 11 Sheets

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In the case of a solid fence type a minimum clearance of at least 0.1 metres must be maintained between any structure and or the invert of any overland flow path within the land so burdened without the prior written consent of Camden Council.

TERMS OF THE RESTRICTION NUMBERED 8 IN THE ABOVEMENTIONED PLAN

The Proprietor of the burdened lot shall not:

- (b) Erect, construct or place any building or other structure.
- (c) Make alterations to the ground surface levels, grates, pits, kerbs, tanks, gutters or any other structure associated with the on-site stormwater detention system.

Within the land so burdened without the prior written consent of Camden Council.

TERMS OF POSITIVE COVENANT NUMBERED 9 IN THE ABOVE MENTIONED PLAN

1. The registered proprietor(s) covenant as follows with the Authority benefited in respect to the Stormwater Quality Improvement Device (hereinafter referred to as "the device") constructed and/or installed on the burdened lot(s), that they will:

- a) Keep the device clean and free from silt, rubbish and debris.
- b) Maintain and repair the device at the sole expense of the registered proprietor(s), so that it functions in a safe and efficient manner, in accordance with the manufacturer's recommended requirements and/or the "Maintenance Schedule" prepared by **North Western Surveys**, a copy of which is held on Council File **CC-TBC**. A copy of this Schedule is available to all owners and occupiers of the burdened lot(s).
- c) For the purpose of ensuring observance of this covenant, permit Blacktown City Council or its authorised agents (hereinafter referred to as "the Council") 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 device and the state of construction, maintenance or repair of the device, for compliance with the requirements of this covenant.
- 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 device and to that extent Section 88F(2)(a)

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Sheet 8 of 11 Sheets

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of the Conveyancing Act 1919 (hereinafter referred to as "the Act") is hereby
agreed to be amended accordingly.

2. 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 registered proprietor 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 1(e)
above.
- (b) The Council may recover from the registered proprietor in a court of competent
jurisdiction:

Any expense reasonably incurred by it in exercising its powers in sub-paragraph
2(a) above. Such expense shall include reasonable wages for employees
engaged in effecting, supervising and administering the said work, together with
costs, reasonably estimated by Council, for the use of materials, machinery, tools
and equipment used in conjunction with the said work.

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
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.

3. This covenant shall bind all persons who are or claim under the registered proprietor(s) as
stipulated in Section 88E(5) of the Act.

For the purpose of this covenant, "the device" means the (**Detention Basin and Bio-Retention
System**) stormwater quality control device(s) constructed and/or installed on the land as detailed
on the plans approved by **Camden Council** as Construction Certificate No. **TBC** on **INSERT
DATE**, 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 device(s).

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Sheet 9 of 11 Sheets

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TERMS OF RESTRICTION NUMBERED 10 IN THE ABOVEMENTIONED PLAN

No dwelling house or other structure shall be constructed on any of the lot(s) hereby burdened unless they are constructed in accordance with the salinity management strategies as contained in the "Salinity Management Plan" prepared by Geo Enviro Consultancy Pty Ltd dated January 2017 held by Camden Council.

NAME OF PERSONS OR AUTHORITY WHOSE CONSENT IS REQUIRED TO RELEASE, VARY OR MODIFY THE TERMS OF THE RESTRICTION NUMBERED 3 IN THE ABOVEMENTIONED PLAN

SUNSHINE PROPERTY DEVELOPERS PTY LTD

NAME OF AUTHORITY WHOSE CONSENT IS REQUIRED TO RELEASE, VARY OR MODIFY THE TERMS OF THE EASEMENTS NUMBERED 1, 5, & 9 THE RESTRICTIONS NUMBERED 4, 6 & 8 AND THE POSITIVE COVENANT NUMBERED 7 IN THE ABOVEMENTIONED PLAN

CAMDEN COUNCIL

Approved by Camden Council

Authorised Person

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Sheet 10 of 11 Sheets

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SIGNATURES AND SEALS

Signed on behalf of **CAMDEN Council** by its authorised delegate pursuant to
Section 377 of the Local Government Act 1919

.....
Signature of Delegate

.....
Name of Delegate

I certify that I am an eligible witness and that the delegate signed in my presence

.....
Signature of witness

.....
Name of Witness

.....
Address of Witness

Approved by Camden Council

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Sheet 11 of 11 Sheets

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SIGNATURES AND SEALS

Executed on behalf of the corporation named below
by the authorised persons whose signatures appear
below pursuant to the authority specified.

Corporation: Sunshine Developers Pty Limited ACN: 606 344 101

Authority: Section 127 Corporations Act 2001

.....
Signature of authorised person:

.....
Signature of authorised person

.....
Name of authorised person:
Office held: DIRECTOR / SECRETARY

.....
Name of authorised person:
Office Held: DIRECTOR/SECRETARY

MORTGAGEE:

Approved by Camden Council

Authorised Person