

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

(Sheet 1 of 8 Sheets)

Plan:

Subdivision of Lot 1 DP1245588 covered by Port Macquarie-Hastings Council's Subdivision Certificate No.

Full name and address of the owner of the land

Bird in the Hand 2 Pty Ltd ACN 639 006 803  
32 Lader Terrace, Varsity Lakes QLD 4227

**PART 1**

<b>Number of item shown in the intention panel on the plan</b>	<b>Identity of easement or restriction to be created and referred to in the plan</b>	<b>Burdened Lot(s) Or parcel(s)</b>	<b>Benefited lot(s) roads(s) bodies or prescribed authorities</b>
1	Easement to Drain Water 1.5 Wide	100 102 106 107 119 120 121 122 123 128 129 130 131 132	Port Macquarie-Hastings Council 101 107,108 108 118 118,119 118,119,120 118,119,120,121 118,119,120,121,122 129,130,131,132,133 130,131,132,133 131,132,133 132,133 133
2	Easement to Drain Water 3 Wide	100	Port Macquarie-Hastings Council
3	Easement to Drain Water Variable Width	134 135	113,135,346 136
4	Restriction on the Use of Land	101 to 136 inclusive	Each other of lots 101 to 136 inclusive
5	Restriction on the Use of Land	101 to 136 inclusive	Port Macquarie-Hastings Council
6	Positive Covenant	101,109	Port Macquarie-Hastings Council
7	Positive Covenant	100	Port Macquarie-Hastings Council
8	Right of Carriageway Variable Width	100	Port Macquarie-Hastings Council
9	Easement for Multi-purpose Electrical Installation 4.2 Wide	103	Essential Energy
10	Restriction on the Use of Land	101	100

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Plan:

Subdivision of Lot 1 DP1245588 covered by Port Macquarie-Hastings Council's Subdivision Certificate No.

**PART 1A**

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction of positive covenant to be released and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Right of Carriageway 19 Wide & Variable (DP1245588)	1/1245588	2/1245588

**PART 2**

**Terms of easement, profit à prendre, restriction, or positive covenant number four referred to in the plan:**

- (a) No building or buildings shall be erected or placed on or be permitted to remain erected or placed on each Lot burdened without obtaining written approval from the The Sanctuary Development Assessment Panel (DAP), on behalf of Bird in the Hand 2 Pty Limited, in accordance with the The Sanctuary Design Guidelines, prior to lodgement for approval by Port Macquarie-Hastings Council or Private Certifier.
- (b) No subdivision of a Lot burdened by a plan creating more than one lot may take place without the prior written approval of Bird in the Hand 2 Pty Limited.
- (c) No building or buildings shall be erected or placed on or be permitted to remain erected or placed on each Lot burdened unless wholly constructed of new or substantially new materials at the time of such erection or placement, without the prior consent in writing of Bird in the Hand 2 Pty Limited.
- (d) No building shall be erected or permitted to remain erected on the Lot having a roof of material other than low profile tile, terracotta, or non-reflective Colourbond.
- (e) No building shall be erected or permitted to remain erected on the Lot having eaves with a horizontal dimension of less than 450 millimetres from the adjoining wall excluding any attached gutters unless approved by the DAP.
- (f) No excavation or fill which alters the present topography of the land by greater than 600 millimeters shall be permitted without the prior consent in writing of Bird in the Hand 2 Pty Limited and unless it is secured by a retaining wall no higher than 900 millimeters and completed prior to habitation of any dwelling on the land.
- (g) No temporary dwelling, caravan, mobile home or similar vehicular residence shall be brought onto or be erected on any Lot and no person shall be permitted to reside in any building being erected on the Lot until completion of its construction.
- (h) No motor vehicle in excess of three (3) tonnes in weight (unladen) shall be permitted to be or to remain upon any Lot except during building operations for the loading or unloading of materials and/or equipment.

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- (i) No advertising hoarding sign or advertising matter or any description shall be erected or displayed upon each Lot burdened.
- (j) No fence shall be constructed on any lot to divide that lot from land owned by Bird in the Hand 2 Pty Ltd without the consent of Bird in the Hand 2 Pty Ltd provided that such consent shall not be withheld if such fence is constructed without expense to Bird in the Hand 2 Pty Ltd.
- (k) No fence shall be erected on the land so as to be situated closer to the street than the house building line and no fence or wall (whether to create a courtyard or otherwise) shall be erected on any Lot burdened or part thereof between the front building alignment of the main building to the street frontage without the prior written approval of Bird in the Hand 2 Pty Ltd.
- (l) No waste or garbage receptacle, water tank, meter box, hot water system or clothes line shall be permitted to remain upon the Lot burdened or part thereof such that it is visible from the adjacent public street except during any building operations or placement for the immediate collection by waste or garbage removal agencies.
- (m) No roof mounted television antennae, satellite dishes, air-conditioning units, swimming pool heating or solar hot water storage devices shall be permitted to remain upon the Lot burdened or part thereof such that it is visible from the adjacent public street or neighbouring parkland nor be located above the ridgeline of the associated dwelling.
- (n) No more than one (1) main building shall be erected or be permitted to remain erected on the land hereby burdened, without the consent of Bird in the Hand 2 Pty Limited and such building shall not be used or permitted to be used other than as a single private dwelling.
- (o) No main building shall be erected or permitted to remain erected on each Lot burdened with a floor area of less than one hundred and eighty square metres (180m<sup>2</sup>).

**Terms of easement, profit à prendre, restriction, or positive covenant number five referred to in the plan:**

No dwelling shall be constructed on the burdened lot unless internal noise levels comply with the Acoustic Report in accordance with AS3671-1989 "Acoustics- Road traffic noise intrusion – Building Siting and construction".

**Terms of easement, profit à prendre, restriction, or positive covenant number six referred to in the plan:**

- a) No building shall be constructed on the burdened lot unless constructed within the area designated (C) on the plan.
- b) No clearing of vegetation shall occur outside of the area designated (C) on the plan, other than the removal of invasive weeds.

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**Terms of easement, profit à prendre, restriction, or positive covenant number seven referred to in the plan:**

The registered proprietor ("proprietor") of the lots burdened will ensure the ongoing management of the area designated (F) within their respective allotment as an Asset Protection Zone, in accordance with section 4.1.3 and Appendix 5 of the NSW Rural Fire Service's publication "Planning for Bush Fire Protection 2006", and the NSW Rural Fire Service's document "Standards for asset protection zones".

**Terms of easement, profit à prendre, restriction, or positive covenant number eight referred to in the plan:**

Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the dominant tenement or any part thereof with which the right shall be capable of enjoyment, and every person authorised by that person, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both to and from the said dominant tenement or any such part thereof PROVIDED THAT such Right of Carriageway shall be released in whole by Port Macquarie Hastings Council upon dedication of the area comprising the Right of Carriageway as Public Road.

**Terms of easement, profit à prendre, restriction, or positive covenant number nine referred to in the plan:**

Easement for Multi-purpose Electrical Installation 4.2 Wide the terms of which are set out in Part C of Memorandum AG189384

**Terms of easement, profit à prendre, restriction, or positive covenant number ten referred to in the plan:**

- a) No entry features or associated landscaping within the area designated "(J)" on the plan and constructed or installed by Bird in the Hand 2 Pty Ltd at the front of the Lot burdened, shall be removed, interfered with or allowed to fall into a state of disrepair or damaged. Any removed or damaged items are to be replaced or repaired by the registered proprietor of the burdened Lot to an equivalent standard.
- b) No fence shall be constructed on the burdened lot within the area designated (J) on the plan, or along the common boundary of the burdened lot and Brush Cherry Boulevarde, or along the southern boundary of the burdened lot.

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Plan:

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Macquarie-Hastings Council's Subdivision Certificate  
No.

**Name of person or authority whose consent is required to release, vary or modify the  
Easements, Restrictions or Positive Covenants number one, two, three, five, six, seven and  
eight referred to in abovementioned plan:**

Port Macquarie-Hastings Council.

**Name of person or authority whose consent is required to release, vary or modify the  
Restrictions number four and ten referred to in abovementioned plan:**

Bird in the Hand 2 Pty Ltd for such time as it remains the registered proprietor of any lot or lots in the  
plan of subdivision and thereafter by the person or persons in whom the legal estate in fee simple is  
for the time being vested in the land in the said plan of subdivision (other than streets or other public  
areas) having a common boundary with the land burdened provided that any such release variation  
or modification shall if approved be made and done in all aspects at the cost and expense of the  
person requesting such release variation or modification.

**Name of person or authority empowered to release, vary or modify the Easement number  
nine referred to in abovementioned plan:**

Essential Energy

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**SIGNED** on behalf of **BIRD IN THE HAND 2 PTY LTD ACN 639 006 803**  
in the presence of:-

.....  
Director  
Name:

.....  
Director/Secretary  
Name:

DRAFT

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**PORT MACQUARIE-HASTINGS COUNCIL** by its authorised delegate pursuant to s.377 Local  
Government Act 1993:

.....  
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 .....

DRAFT

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No.

**EXECUTED BY ESSENTIAL ENERGY**

by its duly appointed attorney under  
Power of attorney Book 4745 No. 85  
In the presence of:

.....  
Signature of witness

.....  
Signature of attorney

.....  
Name of Witness

.....  
Name and title of attorney

.....  
Signature of attorney

.....  
Name and title of attorney

DRAFT