

**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 13 Sheets)

Plan: **DP1273783**

Subdivision of Lot 1 DP1245588 covered by Port
 Macquarie-Hastings Council's Subdivision Certificate
 No. **13.2014.0114.04**

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

Number of item shown in the intention panel on the plan	Identity of easement or restriction to be created and referred to in the plan	Burdened Lot(s) Or parcel(s)	Benefited lot(s) roads(s) bodies or prescribed authorities
1	Easement to Drain Water 1.5 Wide (A)	102 106 107 119 120 121 122 123 128 129 130 131 132	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 Variable Width (B)	134 135 100	113,135,136 136 Port Macquarie-Hastings Council
3	Easement to Drain Water 3 Wide (C)	100	Port Macquarie-Hastings Council
4	Easement for Multi-purpose Electrical Installation 4.2 Wide (D)	100,103	Essential Energy
5	Restriction on the Use of Land	101 to 136 inclusive	Each other of lots 101 to 136 inclusive
6	Restriction on the Use of Land	101 to 136 inclusive	Port Macquarie-Hastings Council
7	Positive Covenant (E)	Part Lot 137	Port Macquarie-Hastings Council
8	Positive Covenant (F)	Part Lot 100	Port Macquarie-Hastings Council
9	Restriction on the Use of Land (G)	Part Lots 101,109	Port Macquarie-Hastings Council
10	Restriction on the Use of Land (H)	Part Lot 101	100
11	Right of Carriageway Variable Width (J)	100	Port Macquarie-Hastings Council

INITIAL 

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(Sheet 2 of 13 Sheets)

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12	Easement for Underground Powerlines 2 Wide (K)	100	Essential Energy
13	Restriction on the Use of Land	113, 112, 117, 119, 133	100
14	Positive Covenant	101 to 136 inclusive	Port Macquarie-Hastings Council
15	Positive Covenant	101	Port Macquarie-Hastings Council
16	Easement for Drainage of Sewage over Existing Line of Pipes (L)	100	Port Macquarie-Hastings Council

PART 1A

Number of item shown in the intention panel on the plan	Identity of easement, profit a` 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
2	Right of Carriageway 3.658 Wide (H347367)	1/1245588 (formally Portion 356)	1/1245588, 2/1245588
3	Easement for Pipeline 5.03 wide (K545005)	1/1245588	Port Macquarie-Hastings Council

PART 2

Terms of easement, profit à prendre, restriction, or positive covenant number four 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 five 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.

INITIAL 

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(Sheet 3 of 13 Sheets)

Plan: **DP1273783**

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Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

- (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.
- (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.

INITIAL 

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TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

(Sheet 4 of 13 Sheets)

Plan: **DP1273783**

Subdivision of Lot 1 DP1245588 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

- (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 (180m²).

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

No dwelling shall be constructed on the burdened lot unless internal noise levels comply with Category 2 construction measures 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 seven referred to in the plan:

The registered proprietor ("proprietor") of the lots burdened will ensure the ongoing management of the area designated (E) within their respective allotment as an Inner Protection Area (IPA), in accordance with Section 4.1.3 and Appendix A5.4 & Appendix A5.5 of *Planning for Bushfire Protection 2006* and the Rural Fire Service "*Standards for Asset Protection Zones*"

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

The registered proprietor ("proprietor") of the lot burdened will ensure the ongoing management of the area designated (F) located within their respective allotment, as a bushfire Asset Protection Zone, in accordance with Appendix 4 of the NSW Rural Fire Service's publication "Planning for Bush Fire Protection 2019", PROVIDED ALWAYS THAT this obligation for ongoing management shall only apply to the proprietor of the lot burdened until residential allotments are registered upon the area designated (F) at which time the obligation upon the proprietor of the lot burdened shall cease and the obligation in respect of that lot burdened is thereafter automatically extinguished and released.

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

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

INITIAL 

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USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT
TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

(Sheet 5 of 13 Sheets)

Plan: **DP1273783**

Subdivision of Lot 1 DP1245588 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.014.04

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 (H) 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 (H) on the plan, or along the common boundary of the burdened lot and Brush Cherry Boulevard, or along the southern boundary of the burdened lot.

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

Easement for Underground Powerlines 2 Wide the terms of which are set out in Part B of registered Memorandum AG189384.

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

No features or associated landscaping constructed or installed by the Developer within the Lot burdened, shall be removed, interfered with or allowed to fall into a state of disrepair or damaged within a three (3) year timeframe from the date of registration of DP1273783. Any removed or damaged items are to be replaced or repaired by the registered proprietor of the burdened Lot to an equivalent standard within a three (3) year timeframe from the date of registration of DP1273783.

INITIAL 

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USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT
TO SECTION 88B OF THE CONVEYANCING ACT, 1919.**

(Sheet 6 of 13 Sheets)

Plan: **DP1273783**

Subdivision of Lot 1 DP1245588 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

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

The registered proprietor ("proprietor") of the lots burdened will ensure the ongoing management of their respective allotment as an Inner Protection Area (IPA), in accordance with Section 4.1.3 and Appendix A5.4 & Appendix A5.5 of *Planning for Bushfire Protection 2006* and the Rural Fire Service "Standards for Asset Protection Zones"

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

The registered proprietor of the lot burdened will ensure the remaining tree on site at time of Registration, and shown in Port Macquarie-Hastings Council's Subdivision Works Certificate Application Number 17.2014.0114.02 Drawing 1003 Rev I is managed in accordance with AS4970.2009

**Name of person or authority empowered or whose consent is required to release, vary or
modify the Easements, Restrictions or Positive Covenants number one, two, three, six,
seven, eight, nine, eleven, fourteen, fifteen & sixteen referred to in abovementioned plan:**

Port Macquarie-Hastings Council.

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

Essential Energy

INITIAL 

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(Sheet 7 of 13 Sheets)

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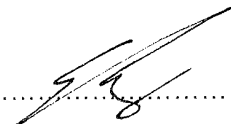
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PORT MACQUARIE-HASTINGS COUNCIL by its authorised delegate pursuant to s.377 Local
Government Act 1993:


.....
Signature of Delegate

Melissa Watkins
.....
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 GRANT BURGE

Address of Witness 17 BURRAWAY ST PORT MACQUARIE

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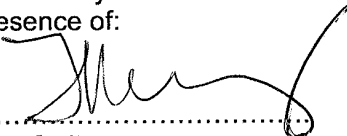
(Sheet 8 of 13 Sheets)

Plan: **DP1273783**

Subdivision of Lot 1 DP1245588 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

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

James Kay
.....
Name of Witness
Lawyer
8 Bulke Street
Port Macquarie

Kelly Ruddeley
.....
Name and title of attorney
Acting Head of Legal

.....
Signature of attorney

.....
Name and title of attorney

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(Sheet 9 of 13 Sheets)

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Macquarie-Hastings Council's Subdivision Certificate
No. **13.2014.0114.04**

SIGNED on behalf of **BIRD IN THE HAND 2 PTY LTD ACN 639 006 803** in accordance with s127 of
the *Corporations Act 2001* (Cth) by:


.....
Sole Director & Secretary
Damien Edward Gwynne

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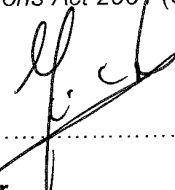
(Sheet 10 of 13 Sheets)

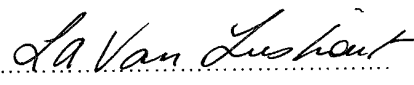
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Subdivision of Lot 1 DP1245588 covered by Port
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No. 13.2014, 0114.04

**MORTGAGEE CONSENT
(VANOUT No.2 PTY LTD)**

SIGNED on behalf of **VANOUT No.2 PTY LTD ACN 619 645 813** in accordance with s127 of the
Corporations Act 2001 (Cth) by:


.....
Director Name: **JOHN ANDREW VAN LIESHOUT**


.....
Director Name: **LINDA ANN VAN LIESHOUT**

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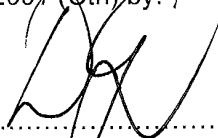
(Sheet 11 of 13 Sheets)

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Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

MORTGAGEE CONSENT

SIGNED on behalf of **CW MB PTY LTD ACN 639 663 531** in accordance with s127 of the *Corporations
Act 2001 (Cth)* by:



.....
Sole Director & Secretary
Damien Edward Gwynne

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(Sheet 12 of 13 Sheets)

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Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

SIGNED on behalf of **THRUMSTER BUSINESS PARK PTY LTD ACN 620 979 124**
in the presence of:-

.....
Secretary
Name:


.....
Sole Director/Secretary
Name: TREVOR GROENEVELD

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(Sheet 13 of 13 Sheets)

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Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.0114.04

**MORTGAGEE CONSENT
(THE TRUST COMPANY (AUSTRALIA) LIMITED)**

EXECUTED by The Trust Company (Australia)
Limited ACN 000 000 993 pursuant to Power
of Attorney dated 18 September 2014
Registered No. 134 Book 4676 who states
that he/she has received no notice
of revocation of the Power of Attorney

Attorney Name: **Amanta Shankar
Manager**

Position:

.....
Attorney

Dated: 12/04/2024

.....
Witness signature **Rachael Bollard**

Witness name: **Client Service Officer**

Address: **Level 18, 123 Pitt Street, SYDNEY NSW 2000**

Dated: 12/04/2024

REGISTERED:



06/06/2024