

**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 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port Macquarie-Hastings Council's Subdivision Certificate No. 13.2014.114.5

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 (A2)	200 212 215 216 217 218 219 221 222 223 224 225	213, 227 200 214 214, 215 214, 215, 216 214, 215, 216, 217 214, 215, 216, 217, 218 222, 223, 224, 225, 226 223, 224, 225, 226 224, 225, 226 225, 226 226
2	Easement to Drain Water 3 Wide (C2)	200	Port Macquarie-Hastings Council
3	Restriction on the Use of Land	201 to 227 inclusive	Each other of lots 201 to 227 inclusive
4	Restriction on the Use of Land	201 to 212 inclusive & 215 to 220 inclusive	Port Macquarie-Hastings Council
5	Restriction on the Use of Land	213, 214, 221 to 225 inclusive	Port Macquarie-Hastings Council
6	Restriction on the Use of Land	226, 227	Port Macquarie-Hastings Council
7	Positive Covenant (F2)	Part Lot 200	Port Macquarie-Hastings Council
8	Restriction on the Use of Land	201, 207, 210, 211, 212, 220, 221	200
9	Positive Covenant	201 to 227 inclusive	Port Macquarie-Hastings Council

INITIAL 

**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 2 of 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

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	Easement to Drain Water 3 Wide (DP1273783) (Partial)	100/1273783 (Part to be released within Aniseed Avenue & Pepperberry Parade in the Plan)	Port Macquarie-Hastings Council

PART 2

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

INITIAL 

**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 3 of 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

- (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.
- (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 four 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".

INITIAL


**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 4 of 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

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 Category 1 for Single Storey & Category 2 for Two Storey 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 six referred to in the plan:

No dwelling shall be constructed on the burdened lot unless internal noise levels comply with Category 1 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 lot burdened will ensure the ongoing management of the area designated (F2) 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 (F2) 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 eight 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 DP1306921. 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 DP1306921.

Terms of easement, profit à prendre, restriction, or positive covenant number nine 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"

INITIAL


**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 5 of 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

**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, four, five six,
seven, & nine 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 three and eight 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.

INITIAL ........


**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 6 of 9 Sheets)

Plan: **DP1306921**


Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.11A.5

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 BUDGE
.....

Address of Witness 17 BIRLAH ST PORT MACQUARIE
.....

**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 7 of 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

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

**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.**

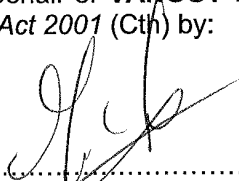
(Sheet 8 of 9 Sheets)

Plan: **DP1306921**

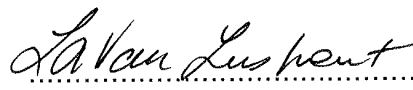
Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

**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

**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.**

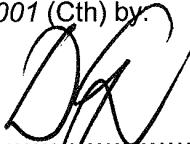
(Sheet 9 of 9 Sheets)

Plan: **DP1306921**

Subdivision of Lot 100 DP1273783 covered by Port
Macquarie-Hastings Council's Subdivision Certificate
No. 13.2014.114.5

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

REGISTERED:



27/08/2024