

**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 12 Sheets)

Plan:

Subdivision of Lot 200 DP1306921 covered by Port  
Macquarie-Hastings Council's Subdivision Certificate  
No. *13.2014.0114.06*

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 (A3)	300 302 303 304 305 308 309 310 311 312 315 316 317 318 319 320 321 323 324 325 328 329 330 331	321,322 303,304,305,306 304,305,306 305,306 306 307 307,308 311,312,313 312,313 313 314 314,315 314,315,316 314,315,316,317 300 300 322 324,325,326, 213/1306921 325,326,213/1306921 326,213/1306921 327, 227/1306921 327,328,227/1306921 327,328,329,227/1306921 327,328,329,330,227/1306921
2	Easement to Drain Water Variable Width (B3)	300	Port Macquarie-Hastings Council
3	Easement to Drain Water 3 Wide (C3)	300	Port Macquarie-Hastings Council
4	Easement for Multi-Purpose Electrical Installation 4.2 Wide (D3)	300	Essential Energy
5	Restriction on the Use of Land	301 to 332 inclusive	Each other of lots 301 to 332 inclusive
6	Restriction on the Use of Land	301 to 319 inclusive	Port Macquarie-Hastings Council
7	Restriction on the Use of Land	320,324, 325,326	Port Macquarie-Hastings Council

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8	Restriction on the Use of Land	321,322,323, 327 to 332 inclusive	Port Macquarie-Hastings Council
9	Positive Covenant (E3)	Part Lot 300	Port Macquarie-Hastings Council
10	Positive Covenant (F3)	Part Lot 300	Port Macquarie-Hastings Council
11	Restriction on the Use of Land (G3)	Part Lots 310,313	Port Macquarie-Hastings Council
12	Right of Carriageway Variable Width (J3)	300	Port Macquarie-Hastings Council
13	Easement for Underground Powerlines 2 Wide (K3)	300	Essential Energy
14	Restriction on the Use of Land	302,318, 319,320	300
15	Positive Covenant	301 to 332 inclusive	Port Macquarie-Hastings Council
16	Positive Covenant	313	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 Variable Width (DP1273783)	200/1306921	Port Macquarie-Hastings Council
2	Easement to Drain Water 3 Wide (DP1306921)	200/1306921	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

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**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.
- (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.

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- (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 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:**

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 eight 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".

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

The registered proprietor ("proprietor") of the lot burdened will ensure the ongoing management of the area designated (E3) 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 (E3) 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 ten referred to in the plan:**

The registered proprietor ("proprietor") of the lot burdened will ensure the ongoing management of the area designated (F3) 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 (F3) 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 eleven referred to in the plan:**

- a) No building shall be constructed on the burdened lot unless constructed within the area designated (G3) on the plan.
- b) No clearing of vegetation shall occur outside of the area designated (G3) on the plan, other than the removal of invasive weeds.

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

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**Terms of easement, profit à prendre, restriction, or positive covenant number thirteen 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 fourteen 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 DP1307775. 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 DP1307775.

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

The registered proprietor of the lot burdened will ensure the remaining trees on site at time of Registration, and shown in Port Macquarie-Hastings Council's Subdivision Works Certificate Application Number 17.2014.0114.06 Drawing 1002 Rev B is managed in accordance with AS4970.2009

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Plan:

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**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, ten, eleven, twelve, 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, fourteen 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 thirteen referred to in abovementioned plan:**

Essential Energy

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

Melissa Watkins  
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 Fin 3

Name of Witness FINN BRACK

Address of Witness 17 BURRAWAN STREET, PORT MACQUARIE, NSW



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**EXECUTED BY ESSENTIAL ENERGY**

by its duly appointed attorney under  
Power of attorney Book 4821 No. 80  
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

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**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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**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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**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