

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE
INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF
LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION
88B CONVEYANCING ACT 1919.

Sheet 1 of 12

Plan:

Subdivision of Lot 300 DP 1307775
covered by Port Macquarie-Hastings
Council General Manager's Certificate No
of

**Full name and address of Proprietor
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, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s).	Benefited lot(s), road(s), bodies or prescribed authorities.
1	Restriction on The Use of Land	701 to 732 inclusive	Every other lot of 701 to 719 inclusive
2	Restriction on The Use of Land	701 to 732 inclusive	Port Macquarie-Hastings Council
3	Positive Covenant	718	Port Macquarie-Hastings Council
4	Positive Covenant	Part 733	Port Macquarie-Hastings Council
5	Positive Covenant	Part 733	Port Macquarie-Hastings Council
6	Restriction on The Use of Land	701 to 710 inclusive	Port Macquarie-Hastings Council
7	Restriction on The Use of Land	725 & 726	733

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Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s).	Benefited lot(s), road(s), bodies or prescribed authorities.
8	Easement for Underground Powerlines 1 wide designated (K)	719	Essential Energy ABN 37 428 185 226
9	Easement to Drain Water 1.5 wide designated (A)	702 703 704 705 706 720 721 723 724 727 728 729 730	701 701 & 702 701, 702 & 703 701, 702, 703 & 704 701, 702, 703, 704 & 705 721 & 722 722 719, 720, 721, 722, 724 & 725 725 726 726 & 727 726, 727 & 728 726, 727, 728 & 729
10	Easement to Drain Water variable width designated (B)	731	732
11	Right of Access 14 wide designated (C)	719	Port Macquarie-Hastings Council
12	Right of Carriageway 20 wide designated (D)	733	Port Macquarie-Hastings Council
13	Right of Carriageway 20 wide designated (E)	733	Port Macquarie-Hastings Council
14	Right of Carriageway 20 wide designated (F)	733	Port Macquarie-Hastings Council

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PART 1A (RELEASE)

Number of item shown in the intention panel on the plan	Identity of easement, profit á prendre, to be released and referred to in the plan.	Burdened lot(s) or parcel(s).	Benefitted lot(s), road(s), bodies or prescribed authorities.
1	Easement for Underground Powerlines 2 wide created by DP 1273783	Part of 300/1307775 being XXXXX Street	Essential Energy ABN 37 428 185 226

PART 2

1 Terms of Restriction firstly referred to in the abovementioned 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 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.

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- (f) No excavation or fill which alters the present topography of the land by greater than 600 millimetres 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 millimetres 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 of 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.

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- (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).

2 Terms of Restriction secondly referred to in the abovementioned plan:

No dwelling shall be constructed on the lot burdened unless internal noise levels comply with Category 1 construction measures in accordance with AS3671-1989 "Acoustics – Road traffic noise intrusion – Building Siting and Construction".

3 Terms of Positive Covenant thirdly referred to in the abovementioned 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.

4 Terms of Positive Covenant fourthly referred to in the abovementioned plan:

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

5 Terms of Positive Covenant fifthly referred to in the abovementioned plan:

The registered proprietor of the lot burdened will ensure the ongoing management of the area designated (J) within the burdened lot, as an Inner Protection Area (IPA), in accordance with Appendix 4 of 'Planning for Bushfire Protection 2019' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

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6 Terms of Restriction sixthly referred to in the abovementioned plan:

The noise barrier along the northern boundary of each burdened lot must not be dismantled or damaged and no opening or accessway shall be constructed through the noise barrier without the consent of Port Macquarie-Hastings Council. If the noise barrier is to be replaced or repaired as part of any maintenance schedule, the noise barrier is to be of the same style, material, height and location as the existing noise barrier.

7 Terms of Restriction seventhly referred to in the abovementioned 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 DP 1314774. 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 DP 1314774.

8 Terms of Easement eighthly referred to in the abovementioned plan:

Terms and conditions as set out in Part B of Memorandum AG189384.

9 Terms of Easement eleventhly referred to in the abovementioned plan:

1. Full and free right for the body in whose favour this easement is created, and every person authorised by it, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both over the land indicated herein as the servient tenement.
2. The body having the benefit of this easement, may do anything reasonably necessary for passing across each such lot, including
 - a) entering the lot burdened, and
 - b) taking anything on to the lot burdened, and
 - c) carrying out work within the site of this easement, such as constructing, placing, repairing or maintaining trafficable surfaces, driveways or structures.

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3. In exercising those powers, the body having the benefit of this easement must
 - a) ensure all work is done properly, and
 - b) cause as little inconvenience as is practicable to the owner of the lot burdened, and
 - c) cause as little damage as is practicable to the lot burdened and any improvement on it, and
 - d) restore the lot burdened as nearly as is practicable to its former condition, and
 - e) make good any collateral damage and
 - f) be responsible for any costs associated with maintaining and repairing the road within the site of the easement.
4. This easement will operate only until such time as alternate access to Desert Lime Drive via the extension of Staghorn Street is provided to Lots 701 to 722. Upon alternate access being established, the easement shall be extinguished and Port Macquarie-Hastings Council shall sign any documentation reasonably required by Land Registry Services NSW to remove reference to the easement from the title of the burdened lot. The costs of Council signing such documentation shall be borne by the owner of the burdened lot.
5. After the easement has been released from the title of the lot burdened, any costs associated with the demolition of the road within the site of the easement and restoration of the land shall be borne by the owner of the burdened lot.

Name of persons empowered to release vary or modify the restrictions firstly & seventhly referred to in the abovementioned plan :

Bird in the Hand 2 Pty Ltd ACN 639 006 803 or if that company has been wound up, otherwise dissolved, or deregistered in any case to the extent where it no longer legally exists, then 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.

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**Name of authority empowered to release vary or modify the Restrictions secondly &
sixthly and the Positive Covenants thirdly, fourthly & fifthly referred to in the
abovementioned plan:**

Port Macquarie-Hastings Council

Executed by)
BIRD IN THE HAND 2 PTY LTD)
ACN 639 006 803)
Pursuant to Section 127 of the)
Corporations Act, 2001)

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

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MORTGAGEE'S CONSENT

Executed by
VANOUT No.2 PTY LTD
ACN 619 845 813
Pursuant to Section 127 of the
Corporations Act, 2001

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)
)
)
)

.....
John Andrew Van Lieshout
Director

.....
Linda Ann Van Lieshout
Director

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MORTGAGEE'S CONSENT

Executed by)
CW MB PTY LTD)
ACN 639 663 531)
Pursuant to Section 127 of the)
Corporations Act, 2001)

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

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**EXECUTED BY ESSENTIAL ENERGY
(ABN 37 428 185 226)**

By its duly appointed attorney under power
of attorney Book 4745 No.85 in the
presence of:

.....
Signature of witness

.....
Signature of attorney
(signing on behalf of Essential Energy
ABN 37 428 185 226)

.....
Full name of witness

.....
Full name and title of attorney

.....
Address of witness

.....
Title of Attorney

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PORT MACQUARIE – HASTINGS COUNCIL

by its authorised delegate pursuant to s.377 Local Government Act 1919

.....
Signature Of Authorised Delegate

.....
Name of Authorised Delegate (Use Block Letters)

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

.....
Signature Of Witness

.....
Name Of Witness (Use Block Letters)

.....
Address Of Witness