

**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.**

**Plan: DP1226996**

Plan of Subdivision of Lot 98 DP1199664 covered by Subdivision Certificate No. 18009

**Full name and address of the owner of the land:**

BD NSW (MR) PROJECT O007 Pty. Ltd.  
 Level 7  
 100 Edward Street  
 BRISBANE 4000

(Sheet 1 of 12 Sheets)

**Part 1 (Creation)**

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 lots(s), road(s), bodies or Prescribed Authorities:
1	Easement to drain water 1.2 wide (E1)	210 232 231 230 237 238 239 240 241	211 233 232 & 233 231, 232 & 233 236 236 & 237 236-238 incl 236-239 incl 236-240 incl
2	Restriction on the use of land	each lot	every other lot
3	Positive Covenant	207-252 incl.	Hawkesbury Council
4	Restriction on the use of land	207-252 incl.	Hawkesbury Council
5	Positive Covenant	207-252 incl.	Hawkesbury Council
6	Easement for Telecommunications services 0.6 wide (E6)	207-252 incl.	NBN Co. Ltd.
7	Easement for retaining wall support 0.5 wide (E7)	207 208 209 211 222 242 243 244	208 209 210 'A' within 100/1199664 221 243 244 245 & 246

.....  
 Authorised Person BD NSW (MR) PROJECT O007 PTY LTD.

.....  
 Authorised Delegate  
 Hawkesbury Council

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(Sheet 2 of 12 Sheets)

**Part 1 (Creation)**

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 lots(s), road(s), bodies or Prescribed Authorities:
8	Easement for retaining wall support 0.5 wide (E8)	207 208 209 222 242 243 244	'B' & 'C' within 100/1199664 'B' within 100/1199664 'A' & 'B' within 100/1199664 223 249 & 250 248 & 249 247 & 248
9.	Easement to drain water 3 wide (E3)	225	Hawkesbury Council

  
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Authorised Person BD NSW

Ref: B16800-1-C5  
DP1226996

  
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Authorised Delegate  
Hawkesbury Council

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## Part 2 (Terms)

### 1. Terms of Restriction on the Use of Land numbered two in the abovementioned plan.

1.1 No building shall be erected or permitted to remain erected on each lot burdened without the prior written consent of the Developer to the plans and specifications for the building which consent shall not be withheld if:

1.1.1 The plans and specifications have attached to it a report from a registered surveyor, architect, building designer or licensed builder certifying that on completion in accordance with the plans and specifications, the proposed building will comply with the Hawkesbury Development Control Plan ("DCP"), and the Redbank Design and Landscape Guidelines; and

1.1.2 the Developer in its absolute discretion considers that the plans substantially comply with the DCP and the Redbank Design and Landscape Guidelines.

### 1.2 Alterations

No alterations or additions may be made to any lot or any change to any building erected on any lot altering its colour, the materials used in its construction or the façade which does not comply with the requirements of the DCP and the Design and Landscape Guidelines. Nothing in this restriction shall prevent any work in the nature of repair or refurbishing that is consistent with the original construction.

### 1.3 Display Homes

No building shall be erected on a burdened lot or permitted to remain on a burdened lot which is used or intended to be used as a Display Home, other than by the Developer, or with the approval of the Developer (which approval will be given or withheld in the Developer's absolute discretion.)

### 1.4 Definitions:

1.4.1 "BD NSW" means BD NSW (MR) Project O007 Pty Ltd (ABN 46 828 720 644).

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Authorised Person BD NSW

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Authorised Delegate  
Hawkesbury Council

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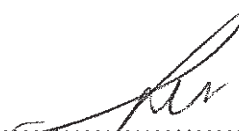
## Part 2 (Terms)

- 1.4.2 "**Developer**" means BD NSW and its successors in title to the Estate to which BD NSW assigns the benefit of this restrictive covenant, provided the successor in title has notified the other proprietors in the Estate that it is the "Developer" for the purposes of this Restriction of Use.
- 1.4.3 "**Display Home**" means a structure, usually a house, which is used to market or sell houses of the same or a similar type and which is intended to show what living space and features of houses are available to be built in the Estate or elsewhere.
- 1.4.4 "**Estate**" means all of the land comprised in the estate known as "Redbank" being the land more particularly described in Certificate of Title 74/1187236, as it may be subdivided from time to time.
- 1.4.5 "**Redbank Design and Landscape Guidelines**" shall mean the Redbank Design and Landscape Guidelines issued under the name of 'North Richmond Joint-Venture - Redbank Development'.
- 1.5 This Restriction on Use was required as a condition of Hawkesbury Council development consent Development Application number DA047/14 and DA0437/14.

## 2. Terms of Positive Covenant numbered three in the abovementioned plan.

Any dwelling constructed on the lots hereby burdened must have a minimum of 50% of the roof area drained to a rainwater tank(s). The rainwater tanks are to have a minimum capacity of 3000 litres and be plumbed for at least one domestic internal use (toilet flushing and/or laundry use). Any rainwater tank over flows, roof and hardstand areas of future development on the lot burdened must be connected to a suitable on site storm water disposal/infiltration system.

  
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### Part 2 (Terms)

**3. Terms of Restriction on the Use of Land numbered four in the abovementioned plan.**

The owner of the lot burdened may not subdivide the lot burdened despite a smaller lot size being permitted by the DCP.

**4. Terms of Positive Covenant numbered five in the abovementioned plan.**

At the issue of Subdivision Certificate and in perpetuity the entire property shall be managed as Inner Protection Areas (IPA) as outlined within Section 4.1.3 and Appendix 5 of "Planning for Bush Fire Protection 2006" and the NSW Rural Fire Service's document "Standards for Asset Protection Zones".

**5. Terms of Easement for telecommunications services 0.6 wide (E6) numbered six in the abovementioned plan**

5.1 NBN Co Limited (ACN 136 533 741) (NBN Co) may:

- (a) install underground optic fibre cable and ancillary equipment and transmit data through the optic fibre cable through each lot burdened, but only within the site of this easement ("the **Conduit**"); and
- (b) do anything reasonably necessary for that purpose, including:
  - (i) entering the lot burdened;
  - (ii) taking anything on to the lot burdened;
  - (iii) carrying out work, such as constructing, placing, replacing, varying, adding removing, repairing or maintaining poles, wires, conduits and equipment within the site of this easement.
  - (iv) removing any trees or vegetation that is reasonably deemed to be obstructing the operation of or access to any equipment contained within the site of this easement.

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Hawkesbury Council

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**Part 2 (Terms)**

5.2 In exercising those powers, NBN Co must:

- (a) ensure all work is done properly;
- (b) cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened;
- (c) cause as little damage as is practicable to the lot burdened and any improvements on them;
- (d) restore the lot burdened as nearly as is practicable to its former condition excluding any restoration of fair wear and tear and/or damage caused by acts beyond the reasonable control of NBN Co.; and
- (e) make good any collateral damage.

5.3 The owner of the lot burdened must not:

- (a) interfere with the Conduit or ancillary equipment or allow anything to interfere, obstruct, damage or destroy the Conduit or ancillary equipment or obstruct NBN Co. exercising its rights under the easement ; or
- (b) use the site of this easement or any other part of the lot burdened in a way which may detrimentally affect the Conduit or ancillary equipment.
- (c) alter the existing ground level contained within or place any building or structure within the site of the easement without NBN Co's prior consent.

**6. Terms of Easement for Retaining Wall Support 0.5 wide (E7) and (E8) numbered seven and eight in the abovementioned plan**

6.1 The owner of the lot burdened must not:

- (a) interfere with the retaining wall or the support it offers, or



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Authorised Person BD NSW



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Authorised Delegate  
Hawkesbury Council

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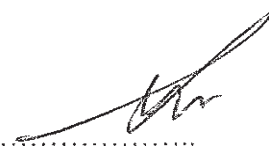
### Part 2 (Terms)

- (b) use the site of this easement, or any other part of the lot burdened, or any other land, in a way which may detract from the stability of or the support provided by the retaining wall.
- 6.2 If the owner of the lot burdened does or allows anything to be done which damages the retaining wall or impairs its effectiveness or fails to do something which results in damage to the retaining wall or the impairment of its effectiveness, the owner of the lot benefited may serve a notice on the owner of the lot burdened requiring the damage to be repaired or the impairment removed within 14 days.
- 6.3 If the owner of the lot burdened does not comply with the notice set out in clause 6.2 within 14 days, the owner of the lot benefited may:
- (a) enter the lot burdened and repair the damage or remove the impairment, and  
(b) recover its reasonable costs from the owner of the lot burdened.
- 6.4 In exercising those powers, the owner of the lot benefited must:
- (a) ensure all work is done properly, and  
(b) cause as little inconvenience as is practicable to the owner and any occupier 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.



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Authorised Person BD NSW

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(Sheet 8 of 12 Sheets)

**Name of Authority empowered to release, vary or modify Easements numbered three, four, five & nine in the abovementioned plan**

Hawkesbury Council.

**Name of person or Authority whose consent is required to release, vary or modify Restriction numbered two in the abovementioned plan**

The Developer until the later of:

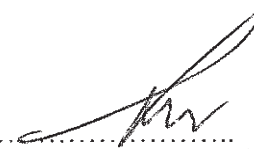
- (a) the date being [five years] from the date of registration of the plan to which this instrument relates; and
- (b) the date on which the Developer ceases to own a lot within the Estate to which this instrument relates, and thereafter Hawkesbury Council.

**Name of Authority empowered to release, vary or modify easement numbered six in the abovementioned plan**

NBN Co Limited



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Authorised Person BD NSW



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Authorised Delegate  
Hawkesbury Council



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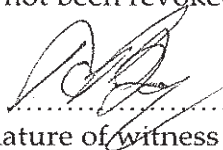
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Level 7  
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(Sheet 9 of 12 Sheets)

Signed on behalf of BD NSW (MR) PROJECT  
O007 Pty. Ltd. ACN 123 888 773  
By its duly authorised Attorney  
being duly authorised in this behalf (who by  
their execution warrant that their appointment  
Has not been revoked) in the presence of:-



.....  
Signature of witness

TOM BOYCE

.....  
Name of witness

1 O'Connell St, Sydney

.....  
Address of witness



.....  
Signature of Attorney

MELINDA GRAHAM

.....  
Name of Attorney

Power of Attorney  
dated: 14 OCTOBER 2014  
Book 46676 No. 327



.....  
Authorised Person BD NSW



.....  
Authorised Delegate  
Hawkesbury Council

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EXECUTED for and on behalf of NBN Co Limited ACN 136 533 741 by its duly appointed attorneys pursuant to Power of Attorney dated 19 May, 2015 Registered Book 4689 No. 895, in the presence of:

  
.....  
Signature of Witness


  
.....  
Signature of Attorney

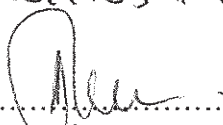
Cheryl Demarkas  
.....  
Full name of Witness

Peter Clements  
.....  
Full name of Attorney

111, 100 Arthur St, North Sydney  
.....  
Address of Witness

General Manager  
FACILITIES + FLEET (Tier 3)

Jason Walsh   
.....  
Signature of Witness


  
.....  
Signature of Attorney

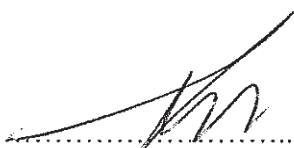
Jason William Walsh  
.....  
Full name of Witness

ANDREW KENNEWELL  
.....  
Full name of Attorney TIER 4 ATTORNEY

cl- Level 11, 100 Arthur Street,  
.....  
Address of Witness North Sydney

School Manager

  
.....  
Authorised Person BD NSW

  
.....  
Authorised Delegate  
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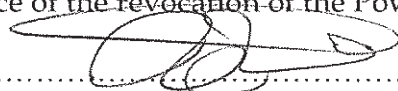
National Australia Bank Limited ACN 004 044 937

Executed by its Level 2 Attorney DANIEL MILLAR

Under Power of Attorney No 39 Book 4512

this 4<sup>th</sup> Day of APRIL

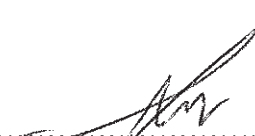
  
.....  
(By executing this instrument the Attorney states that the Attorney has  
received no notice of the revocation of the Power of Attorney)

  
.....  
(Signature of Witness)

REBECCA STEWART  
.....  
(Name of Witness)

C/- 255 GEORGE ST SYDNEY NSW 2000  
.....  
(Address of Witness)

  
.....  
Authorised Person BD NSW

  
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Authorised Delegate  
Hawkesbury Council

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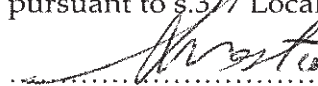
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(Sheet 12 of 12 Sheets)

Hawkesbury Council by its authorised delegate  
pursuant to s.377 Local Govt. Act, 1993


  
.....

Signature of delegate

ALAN HASTIE  
.....

Name of delegate

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

  
.....

Signature of Witness

Nicole Miller  
.....

Name of Witness

366 George St Windsor  
.....

Address of Witness

  
.....

Authorised Person BD NSW

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Authorised Delegate  
Hawkesbury Council

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