

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: **DP1199660**

Plan of Subdivision of Lot 300 DP1199659 covered by Subdivision Certificate No. *16009*

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 14 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 <del>1.5 wide (E2)</del> 3.5 wide (E1)	302	315
2	Restriction on the use of land	each lot except 315	every other lot except 315
3	Easement to drain water 1.5 wide (E21)	315	310
4	Easement to drain water 1.5 wide (E31)	315	311
5	Easement to drain water 1.5 wide (E41)	315	312
6	Easement to drain water 1.5 wide (E51)	315	313
7	Easement to drain water 1.5 wide (E61)	315	314
8	Right of access 3.5 wide (E71)	315	Hawkesbury Council
9	Easement to drain water 5 wide (E81)	315	Hawkesbury Council
10	Easement for Padmount substation 3.95 wide (E91)	315	Endeavour Energy
11	Restriction on the use of land (R10)	Pt. 315	Endeavour Energy
12	Restriction on the use of land (R20)	Pt. 315	Endeavour Energy

.....  
 Authorised Person  
 Hawkesbury Council

Ref: B16800-3A-C2  
 DP1199660

.....  
 Authorised person BD NSW (MR) PROJECT  
 Legal/45188888\_5

Plan: **DP1199660**

ePlan  
Plan of Subdivision of Lot 300 DP1199659  
covered by Subdivision Certificate No. **16009**

Full name and address  
of the owner of the land:

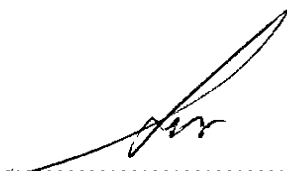
BD NSW (MR) PROJECT O007 Pty. Ltd.  
Level 7  
100 Edward Street  
BRISBANE 4000

(Sheet 2 of 14 Sheets)

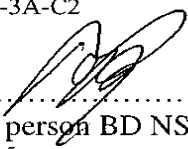
**Part 1 (Creation)**

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:
13	Easement for telecommunications cables 0.6 wide (E3)	302-31 <sup>4</sup> / <del>2</del> incl.	NBN Co Limited
14	Positive Covenant	302-314 incl	Hawkesbury Council
15	Positive Covenant	302-314 incl	Hawkesbury Council
16	Restriction on the use of land	each lot except 315	every other lot except 315
17	Restriction on the use of land	310-314 incl	Hawkesbury Council

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Authorised Person  
Hawkesbury Council

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.....  
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## Part 2 (Terms)

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

#### 1.1 Building

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:

- (a) 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 DCP, and the Redbank Design and Landscape Guidelines; and
- (b) 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.)

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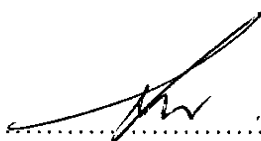
**Part 2 (Terms)**

**1.4 Definitions:**

- (a) **"BD NSW"** means BD NSW (MR) Project O007 Pty Ltd (ABN 46 828 720 644).
- (b) **"Developer"** means BD NSW and its successors in title to the Estate to which BD NSW assigns the benefit of this Restriction on use, 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.
- (c) **"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.
  - (i) **"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.
  - (ii) **"Redbank Design and Landscape Guidelines"** shall mean the Redbank Design and Landscape Guidelines relevant to the burdened lot issued under the name of 'North Richmond Joint-Venture - Redbank Development (Belmont); and

**"DCP"** means the Hawkesbury Council Development Control Plan 2002, as it may be amended from time to time.

1.5 This Restriction on Use was required to be imposed by Hawkesbury Council.

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Hawkesbury Council

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**Part 2 (Terms)**

**2. Terms of Easement for Padmount Substation 3.95 wide (E91) numbered ten in the abovementioned plan**

An Easement for Padmount Substation in the Terms as set out in Memorandum No. AK104621 lodged with Land and Property Information on behalf of Endeavour Energy.

**3. Terms of Restriction on the Use of Land (R10) numbered eleven in the abovementioned plan**

3.1 No building shall be erected or permitted to remain within the restriction site unless:

3.1.1 the external surface of the building erected within 1.5 metres from the substation footing has a 120/120/120 fire rating and

3.1.2 the external surface of the building erected more than 1.5 metres from the substation footing has a 60/60/60 fire rating

and the owner provides the authority benefited with an engineer's certificate to this effect.

3.2 The fire ratings mentioned in clause 3.1 must be achieved without the use of fire fighting systems such as automatic sprinklers.

**3.3 Lessee of Endeavour Energy's Distribution System**

3.3.1. Notwithstanding any other provision in this restriction on the use of land, the owner acknowledges and agrees that any lessee of Endeavour Energy's distribution system, and any nominee of such lessee (which may include a sublessee of Endeavour Energy's distribution system from that lessee), may

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Hawkesbury Council

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### Part 2 (Terms)

without the need for any further approvals or agreements, exercise the rights and perform the obligations of Endeavour Energy as if that lessee or nominee were Endeavour Energy, but only for so long as the lessee leases Endeavour Energy's distribution system from Endeavour Energy.

3.3.2. The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Endeavour Energy.

#### 3.4 Definitions:

3.4.1 **"120/120/120 fire rating"** and **"60/60/60 fire rating"** means the fire resistance level of a building expressed as a grading period in minutes for structural adequacy/integrity failure/insulation failure calculated in accordance with Australian Standard 1530


3.4.2 **"building"** means a substantial structure with a roof and walls and includes any projections from the external walls

3.4.3 **"erect"** includes construct, install, build and maintain

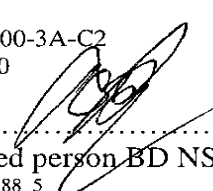
3.4.4 **"restriction site"** means that part of the lot burdened affected by the restriction on the use of land shown as (R10) on the plan.

#### 4. Terms of Restriction on the Use of Land (R20) numbered twelve in the abovementioned plan

4.1 No swimming pool or spa shall be erected or permitted to remain within the restricted site.

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Hawkesbury Council

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**Part 2 (Terms)**

4.2 Lessee of Endeavour Energy's Distribution System

4.2.1 Notwithstanding any other provision in this restriction on the use of land, the owner acknowledges and agrees that any lessee of Endeavour Energy's distribution system, and any nominee of such lessee (which may include a sublessee of Endeavour Energy's distribution system from that lessee), may, without the need for any further approvals or agreements, exercise the rights and perform the obligations of Endeavour Energy as if that lessee or nominee were Endeavour Energy, but only for so long as the lessee leases Endeavour Energy's distribution system from Endeavour Energy.

4.2.2 The owner must do all things reasonably necessary to ensure any such lessee, and any such nominee, is able to exercise the rights and perform the obligations of Endeavour Energy.

4.3 Definitions:

4.3.1 "erect" includes construct, install, build and maintain

4.3.2 "restriction site" means that part of the lot burdened affected by the restriction on the use of land shown as (R20) on the plan.

**5. Terms of Easement for telecommunications cables 0.6 wide (E3) numbered thirteen in the abovementioned plan**

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

(a) install underground optic fibre cable 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;

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Hawkesbury Council

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**Part 2 (Terms)**

- (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 the easement

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 damaged caused by acts beyond the reasonable control of NBNCo; and ~~and~~
- (e) make good any collateral damage.

5.3 The owner of the lot burdened must not:

- (a) interfere with the Conduit or allow anything to interfere, obstruct, damage or destroy the Conduit or obstruct NBNCo 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
- (c) alter the existing ground level contained within or place any building or structure within the site of the easement without NBNCo's prior consent.

**6. Terms of Positive Covenant numbered fourteen in the abovementioned plan.**

Any dwelling constructed on the lot 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

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Hawkesbury Council

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**Part 2 (Terms)**

future development on the lot burdened must be connected to a suitable on site storm water disposal/infiltration system.

**7. Terms of Positive Covenant numbered fifteen in the abovementioned plan.**

At the issue of Subdivision Certificate and in perpetuity the entire property (lot 1) 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".

**8. Terms of Restriction on the Use of Land numbered sixteen 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.

**9. Terms of Restriction on the Use of Land numbered seventeen in the abovementioned plan.**

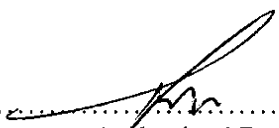
No fence shall be constructed or permitted to remain on the boundary designated 'x'-y'-z' in the abovementioned plan unless such fence is a plain post and wire fence.

**Name of Authority empowered to release, vary or modify Easements numbered eight, nine, fourteen, fifteen in the abovementioned plan**

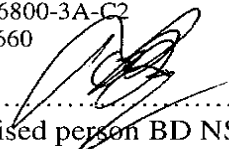
Hawkesbury Council.

**Name of Authority empowered to release, vary or modify Easements and Restrictions numbered ten, eleven, and twelve in the abovementioned plan**

Endeavour Energy.

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Authorised Person  
Hawkesbury Council

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Authorised person BD NSW (MR) PROJECT  
Legal/45188888\_5

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

NBN Co Limited.

**Name of Authority empowered to release, vary or modify Restriction numbered one**

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.

Ref: B16800-3A-C2  
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Authorised person BD NSW (MR) PROJECT  
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Authorised Person  
Hawkesbury Council

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.

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(Sheet 11 of 14 Sheets)

Signed on behalf of BD NSW (MR) PROJECT O007 Pty. Ltd. 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

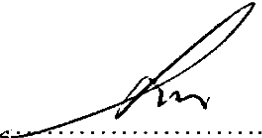
ANDREW FUHERTY  
.....  
Name of witness

8-10 CASTLEREACH STREET, PENRITH,  
Address of witness NSW 2750

  
.....  
Signature of Attorney

THOMAS DAMIEN BOYCE  
.....  
Name of Attorney

Power of Attorney dated: 14-10-2014  
Book 4676 No. 327

  
.....  
Authorised Person  
Hawkesbury Council

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(Sheet 12 of 14 Sheets)

Signed on behalf of **Endeavour Energy**  
**ABN 59 253 130 878** by its Attorney pursuant  
to Power of Attorney Book **4693** No **329**  
in the presence of:

ctj

*D Pears*

Signature of Witness

*Helen Smith*

Signature of Attorney

Name: *Helen Smith*

Position: *Manager Property & Fleet*

*Deborah Pears*

Name of Witness

*15 FEBRUARY 2016*

Date of Execution

Ref: *URS16032*

c/- Endeavour Energy  
51 Huntingwood Drive  
HUNTINGWOOD NSW 2148

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Authorised Person  
Hawkesbury Council

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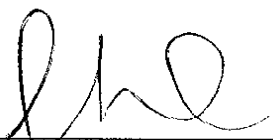
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(Sheet 13 of 14 Sheets)

Executed by 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:



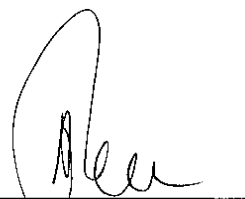
Signature of Witness

Cheryl Nomarkas

Name of Witness

Level 11, 100 Arthur St,  
North Sydney

Address of Witness



Signature of Attorney

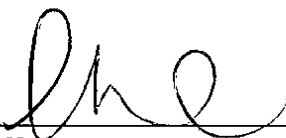
ANDREW KENNEWELL

Name of Attorney

TIER 4 ATTORNEY

SENIOR MANAGER, FACILITIES

Tier and Position Title of Attorney



Signature of Witness

Cheryl Nomarkas

Name of Witness

Level 11, 100 Arthur St, North  
Sydney

Address of Witness



Signature of Attorney

Name of Attorney

Graham Millett  
GM Facilities & Fleet  
Tier 3 Attorney

Tier and Position Title of Attorney

.....  
Authorised Person  
Hawkesbury Council

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BRISBANE 4000


(Sheet 14 of 14 Sheets)

National Australia Bank Limited ACN 004 044 937

Executed by its Level **2** Attorney **MICHAEL SERVENT**

Under Power of Attorney No **39 BOOK 4512**

this **26<sup>th</sup>** Day of **FEBRUARY 2016**

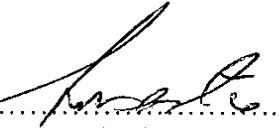
  
.....  
(By executing this instrument the Attorney states that the Attorney has  
received no notice of the revocation of the Power of Attorney)

.....  
(Signature of Witness)

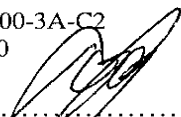
**NED HMEIDAN**  
**ANALYST**  
NAB Corporate Property NSW

.....  
(Name of Witness)

**255 George Street Sydney NSW 2000**  
.....  
(Address of Witness)

  
.....  
Authorised Person  
Hawkesbury Council

Ref: B16800-3A-C2  
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REGISTERED  19.04.2016