

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: Plan of Subdivision of Lot 63 DP1255164 and easements over Lot 62 DP1255164 covered by Subdivision Certificate No.

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 11 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.	Positive Covenant	821-836 incl, 840, 868	Hawkesbury Council
2.	Restriction on the Use of Land	each lot except 869	every other lot except 869
3.	Positive Covenant	819-868 incl	Hawkesbury Council
4.	Positive Covenant	819-868 incl	Hawkesbury Council
5.	Restriction on the Use of Land	819-868 incl	Hawkesbury Council
6.	Restriction on the Use of Land	819-836 incl, 840 853-868 incl.	Hawkesbury Council
7.	Restriction on the Use of Land	869	821-836 incl, 840, 853-858 incl, 868
8.	Easement to drain water 1m wide (E1)	869 62/1255164	822-835 incl., 863-868 incl 862
9.	Easement to drain water 1.2m wide (E2)	848 849 850 851 852	847 847, 848 847-849 incl. 847-850 incl. 847-851

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Authorised person BD NSW (MR) PROJECT

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Authorised Person
Hawkesbury Council

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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:
10.	Easement to drain water 1.7m wide (E3)	837 838 839 854 855 856	836 836, 837 836, 837, 838 853 853, 854 853, 854, 855
11.	Easement to drain water 2.5m wide (E4)	857	853-856 incl
12.	Easement to drain water 3m wide (E5)	869 858	Hawkesbury Council 853-857 incl
13.	Positive Covenant	869	Hawkesbury Council
14.	Easement to drain water 3m wide and variable (E6)	869	853-857 incl. and Hawkesbury Council
15.	Right of carriageway (over whole lot)	869 & 62/1255164	Hawkesbury Council

Part 1a (Release)

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.	Right of carriageway 25 wide (E4) (DP1211770)	63/1255164	Hawkesbury Council
2.	Easement to drain water 3 wide (E17) (DP1233055)	63/1255164	Hawkesbury Council
3.	Easement to drain water 3 wide (E19) (DP1233055)	63/1255164	Hawkesbury Council

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Part 2 (Terms)

1. Terms of Positive Covenant numbered one in the abovementioned plan

The owners of the lots burdened covenant with Hawkesbury Council (**Council**) to maintain and repair the retaining wall on the burdened lots in accordance with the following terms and conditions:

- (a) each owner of a lot burdened will, at their cost, maintain and repair and keep the retaining wall as the same material, dimensions and levels, which existed at the time of registration, as well as, maintained and repaired, so that the retaining wall functions in a safe and effective manner as determined by Council;
- (b) for the purpose of ensuring compliance with this covenant, Council may by its servants or agents at any reasonable time and upon giving an owner of a burdened lot not less than 2 days' notice (but at any time without notice in the case of an emergency), enter the land and view the state of construction, maintenance or repair of the retaining wall on the burdened lot and any works on the burdened lot;
- (c) by written notice Council may require each owner of a burdened lot to attend to any matter or carry out any work within such time as Council may require to ensure the proper and efficient performance of the retaining wall on that owner's burdened lot;
- (d) Section 88F(2)(a) of the Act will apply to any works performed under clause 8(c);
- (e) pursuant to section 88F(3) of the Act, Council has the following additional powers:
 - (i) in the event that an owner of a burdened lot fails to comply with the terms of any written notice issued by Council as set out in (c) above, Council or its authorised agents may enter that burdened lot with all necessary equipment and carry out any work which Council in its discretion considers reasonable;

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Part 2 (Terms)

- (ii) Council may recover from each owner of a burdened lot:
1. any expense reasonably incurred by Council in exercising its powers under clause 8(e)(i) in respect of that owner's lot. For the purposes of this clause 8(e)(ii)(1) such expense will include, without limitation:
 - i. reasonable wages for Council's employees engaged in effecting, supervising and administering the works ; and
 - ii. any costs reasonably incurred by Council in connection with the works;
 2. legal costs on an indemnity basis for issuing any notice and for recovering any cost or expense (including any cost associated with registering a covenant charge on the relevant burdened lot pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act).
- (f) This covenant shall bind all persons who claim under the owners of the lots burdened as stipulated in Section 88E(5) of the Act.
- (g) For the purposes of this positive covenant "**the Act**" means the *Conveyancing Act 1919 (NSW)* (as amended from time to time).

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Part 2 (Terms)

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

2.1 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:

2.1.1 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

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

2.2 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.

2.3 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)

2.4 Definitions:

2.4.1 "**BD NSW**" means BD NSW (MR) Project O007 Pty Ltd (ACN 123 888 773).

2.4.2 "**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.

2.4.3 "**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.

2.4.4 "**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.

2.4.5 "**Redbank Design and Landscape Guidelines**" shall mean the Redbank Design and Landscape Guidelines for Belmont East (Lots 859-868) and Ploughmans (Lots 819-858) issued under the name of 'Redbank North Richmond'.

2.5 This Restriction on Use was required as a condition of Hawkesbury Council development consent Development Application number DA0412/17

3. Terms of Positive Covenant numbered three in the abovementioned plan.

Any dwelling constructed on the lot(s) 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 overflows, roof and hardstand areas of future development on the lot(s) burdened must be connected to a suitable on site storm water disposal/infiltration system.

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4. Terms of Positive Covenant numbered four in the abovementioned plan.

The owner of the lot burdened must manage the entire lot burdened 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", as it may be varied, added to or replaced from time to time.

5. Terms of Restriction on the Use of Land numbered five 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 site specific provisions of the Development Control Plan.

6. Terms of Restriction on the Use of Land numbered six in the abovementioned plan.

The owner of the lot(s) burdened must not remove or permit to be removed the fence existing within 1m of the boundary designated 'x'-y'-z' at the time of registration of the abovementioned plan, where that lot shares a common boundary with a residual lot, open space lot or public road reserve. The owner must maintain this fence to the same standard that existed at the time of registration of the abovementioned plan described as a plain, natural timber post and rail/wire fence.

7. Restriction on the use of land numbered seven in the abovementioned plan

The owner of the Lot burdened must not alter the existing surface levels of the land adjoining the boundaries designated 'x'-y'-z' in a manner that would adversely affect any adjoining retaining wall.

8. Terms of Positive Covenant numbered thirteen in the abovementioned plan

The owner of the Lot burdened must maintain the Lot as an interim asset protection zone as managed grassland as described in the bush fire report prepared by Molino Stewart ref: 0922 Ploughmans DA Bushfire Hazard Assessment Final Report v2 dated 12.07.17 .

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The asset protection zone shall be managed as an inner protection area as outlined within Planning for Bush Fire Protection 2006 and the Rural Fire Service's document "Standards for Asset Protection Zones".

9. Terms of right of carriageway (over whole lot) numbered fifteen in the abovementioned plan

Terms as set out in Part 1 Schedule 8 of the Conveyancing Act, 1919 plus the right for NSW Rural Fire Service to enjoy the same benefit.

Name of Authority empowered to release, vary or modify Easements numbered one, three, four, six thirteen and fifteen in the abovementioned plan

Hawkesbury Council.

Name of person 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.

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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

.....
Signature of Attorney

.....
Name of witness

.....
Name of Attorney

.....
Address of witness

Power of Attorney
dated:
Book No.

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

Executed by its Level Attorney

Under Power of Attorney No

this Day of

.....
(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)

.....
(Name of Witness)

.....
(Address of Witness)

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

.....
Signature of delegate

.....
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

.....
Address of Witness

.....
Authorised person BD NSW (MR) PROJECT

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Authorised Person
Hawkesbury Council