

**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 OF THE CONVEYANCING
ACT 1919**

(Sheet 1 of 6 sheets)

Plan: Subdivision of Lot 17 in DP 1055166
Covered by Council's Certificate No.
Date:

Full name and address
of proprietor of Land: Krigus Pty Ltd
PO Box 555
GAR BUTT EAST QLD 4814

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit a 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.	Easement for Drainage of water 2 wide	1 2 3 5	2, 3 3 4 7
2.	Positive covenant 15 wide and variable	5 and 7	Council of the City of Lake Macquarie
3.	Positive covenant 10 wide and variable	5 and 7	Council of the City of Lake Macquarie
4.	Positive covenant 20 wide	4	Council of the City of Lake Macquarie
5.	Positive covenant 10 wide	1, 2, 3 and 4	Council of the City of Lake Macquarie
6.	Restriction on the use of land	Each lot	Council of the City of Lake Macquarie

Plan:

Plan of consolidation of Lot 17 DP 1055166
Covered by Certificate No.

7.	Restriction on the use of land	1, 2, 3 and 4	Council of the City of Lake Macquarie
8.	Restriction on the use of land	4, 5 and 7	Council of the City of Lake Macquarie
9.	Restriction on the use of land	7	Council of the City of Lake Macquarie

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Part 2 (Terms)

1. **Name of Authority empowered to release, vary or modify the Easement for Drainage of Water 2 wide firstly referred to in the abovementioned plan:**

Council of the City of Lake Macquarie

2. **Terms of Positive Covenant 15 wide and variable secondly referred to in the abovementioned plan:**

- a) The owner of the land hereby burdened shall at all times maintain the portion of the site denoted marked 'A' on the plan as an Asset Protection Zone (APZ) in accordance with "Planning for Bushfire Protection 2006" a document produced by the Rural Fire Service and the Department of Planning.
- b) The owner of the land hereby burdened shall manage the area denoted marked on the plan as 'A' to retain the existing tree coverage and require both hand and mechanical/hazard reduction clearing of the understorey vegetation so as to provide clumps of retained understorey separated to prevent fire extension through the denoted marked on the plan as 'A'. Ground fuel shall be managed to maintain a fuel loading of 8 tonnes/ hectare.

The Authority empowered to release, vary or modify the positive covenant referred to in the abovementioned plan:

Council of the City of Lake Macquarie

3. **Terms of Positive Covenant 10 wide and variable thirdly referred to in the abovementioned plan:**

- a) The owner of the land hereby burdened shall at all times maintain the area denoted on the plan as 'B' as an Asset Protection Zone (APZ) in accordance with "Planning for Bushfire Protection 2006" a document produced by the Rural Fire Service and the Department of Planning.
- b) The owner of the land hereby burdened shall at all times maintain the area denoted on the plan as 'B' to provide maximum ground fuel loadings at 3 tonnes/hectare to 85% of the total landscaped area with 15% maintained to a maximum of 5 tonnes/hectares.

The Authority empowered to release, vary or modify the positive covenant referred to in the abovementioned plan:

Council of the City of Lake Macquarie

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4. Terms of Positive Covenant 20 wide fourthly referred to in the abovementioned plan:

- a) The owner of the land hereby burdened shall at all times maintain the area denoted on the plan as 'C' as an Asset Protection Zone (APZ) in accordance with "Planning for Bushfire Protection 2006" a document produced by the Rural Fire Service and the Department of Planning.
- b) The owner of the land hereby burdened shall at all times maintain the area denoted on the plan as 'C' to provide maximum ground fuel loadings at 3 tonnes/hectare to 85% of the total landscaped area with 15% maintained to a maximum of 5 tonnes/hectares.

The Authority empowered to release, vary of modify the positive covenant referred to in the abovementioned plan:

Council of the City of Lake Macquarie

5. Terms of Positive Covenant 10 wide fifthly referred to in the abovementioned plan:

- a) The owner of the land hereby burdened shall at all times maintain the area denoted on the plan as 'D' as an Asset Protection Zone (APZ) in accordance with "Planning for Bushfire Protection 2006" a document produced by the Rural Fire Service and the Department of Planning.
- b) The owner of the land hereby burdened shall at all times maintain the area denoted on the plan as 'D' to provide maximum ground fuel loadings at 3 tonnes/hectare to 85% of the total landscaped area with 15% maintained to a maximum of 5 tonnes/hectares.

The Authority empowered to release, vary of modify the positive covenant referred to in the abovementioned plan:

Council of the City of Lake Macquarie

6. Terms of Restriction on the use of land sixthly referred to in the abovementioned plan:

- a) Not more than one main building shall be erected on any lot burdened and such main building shall only be used for single residential dwelling purposes PROVIDED ALWAYS HOWEVER that where the Lake Macquarie City Council "Granny Flat" Policy permits the erection of a "granny flat" on any lot burdened then such a "granny flat" may only be erected in addition to the main building on such lot strictly in accordance with the said Policy and that in such cases any and all references in this Instrument to "main building" shall be deemed to include and refer to any such permitted "granny flat".
- b) No main building shall be erected or be permitted to remain erected on any lot burdened, having an overall floor area of less than one hundred and eighty (180) square metres exclusive of car accommodation, external landings and patios.
- c) No building shall be erected on any lot burdened unless built entirely with new materials.

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- d) No building shall be occupied until the main building and driveway are fully completed and an occupation certificate issued by the Lake Macquarie City Council.
- e) No fence shall be erected or be permitted to remain on any lot burdened to divide it from any adjoining land owned by Krigus Pty Limited without the prior written consent of the Developers but such consent shall not be withheld if such fence is erected without expense to the Developers provided that this restriction shall remain in force only during such time as Krigus Pty Limited is the Registered Proprietor of any land in the Plan or any land immediately adjoining the land in the said Plan whichever is the later.
- f) No garage or carport or shed or outhouse shall be erected or be permitted to remain erected on any lot burdened unless each such garage or carport or shed or outhouse is constructed of the same materials as the main building erected on such lot burdened.
- g) No earth, stone, gravel or trees shall be removed or excavated from any lot burdened except where such removal or excavation is necessary for the erection of a building or structure. No lot shall be permitted to be, appear or remain in an excavated or quarried state. Without prejudice to other remedies, breach of this condition in respect of any lot burdened shall entitle the Developers to terminate any uncompleted agreement for its sale of such lot.
- h) No fuel storage tanks (except for oil-heating purposes) shall be placed upon or permitted to remain on any lot burdened.
- i) No noxious, noisy or offensive occupation, trade, business, manufacture or home industry shall be conducted or carried out on any lot burdened.
- j) No run off water from any building, impervious surface or other material or structure laid or constructed on any lot burdened shall be permitted to run outside the boundaries of that lot except into or through any interallotment drainage system within the easement for drainage shown on the within Plan.

Name of person empowered to release, vary or modify the Restriction on the use of land referred to in the abovementioned plan:

The above restrictions may be released, varied or modified by or with the consent of Krigus Pty Limited until 31 December 2017 and thereafter the registered proprietors of the lots with a common boundary to the lot seeking the release, variation or modification.

7. Terms of Restriction on the use of land seventhly referred to in the abovementioned plan:

- a) No residential dwelling will be constructed on any lot unless it is of Level 1 Standard as described in Australian Standard 3959-1999 "Construction of Buildings in Bushfire-Prone Areas".

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The Authority empowered to release, vary or modify the Restriction on the use of land referred to in the abovementioned plan:

Council of the City of Lake Macquarie

8. Terms of Restriction on the use of land eighthly referred to in the abovementioned plan:

- a) No residential dwelling will be constructed on any lot unless it is of Level 1 Standard as described in Australian Standard 3959-1999 "Construction of Buildings in Bushfire-Prone Areas". The following shall apply to future dwellings;
 - i. The garage doors shall be fitted with fire rated weather seals to prevent entry of embers and sparks.
 - ii. Roof skylights/vents (if installed) shall be fitted with fire rated Georgian Wired Glass (not thermo plastic materials).
 - iii. No combustible materials shall be stored within two metres of the external walls of the building.
 - iv. The roof of the dwelling shall be fitted with a gutter protection system that minimizes the accumulation of combustible material within the roof gutters and on the roof valleys. Such a protective device shall have a flammability Index of less than 5 as determined by the test procedures of Australian Standard AS 1530.2.

9. Terms of Restriction on the use of land ninthly referred to in the abovementioned plan:

- a) No development shall be permitted without consent in the area denoted 'F' on the plan.

The Authority empowered to release, vary or modify the Restriction on the use of land referred to in the abovementioned plan:

Council of the City of Lake Macquarie