



ANNEX J

88B Instrument

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS A
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 4 sheets)

Plan:

Subdivision of Lots 363, 364 & 365 in Deposited
Plan 729946; Lot 1 in Deposited Plan 1003892 and
Lots 1 & 2 in Deposited Plan 1021884 covered by
Council Clerk's Certificate

DP1043169 


No 2002-85 of 27 June 2002

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

**LANDCOM
Riverbank Corporate Centre
Level 2, 330 Church Street
PARRAMATTA NSW 2150**

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), roads(s), bodies or Prescribed Authorities:
1	Easement to Drain Water 2 Wide	106-107	1563 DP 239105
2	Restriction on Use	101-130 incl.	Lots 101-130 incl
3	Restriction on Use	101 -130 incl. 100	Lots 101 -130 incl 100

28.8.2002

LOT 100 AMENDED IN L.P.1/NSW VIDE 2002/1834

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(Sheet 2 of 4 sheets)

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PART 2 (Terms)

**Terms of easement, profit a prendre, restriction, or positive covenant numbered
two in the plan:**

- a) No fence shall be erected on each Lot burdened to divide it from any adjoining land owned by LANDCOM or its successors with the consent of LANDCOM or its successors other than purchasers on sale but such consent shall not be withheld if such fence is erected without expense to LANDCOM or its successors and in favour of any person dealing with the purchaser or his assigns such consent shall be deemed to have been given in respect of every such fence for the time being erected PROVIDED HOWEVER that his covenant in regard to fencing shall be finding on a purchaser his executors and administrators and assigns only during the ownership of the said adjoining land by LANDCOM or its successors other than purchasers on sale.
- b) No advertisement or hoarding sign or matter shall be erected or displayed on each lot burdened (other than a sign advertising that the said lot is for sale) without the prior written consent of LANDCOM or its successors.
- c) No building shall be erected on the land which has been previously erected elsewhere.
- d) Unless Port Stephens Council otherwise approves in relation to any lot or lots in the abovementioned plan, no more than one main building shall be erected or be permitted to remain on the land and no such building shall have an overall floor area excluding any garage, carport or courtyard
 - (i) of less than 105 m² where it is a single unit dwelling
 - (ii) of less than 160 m² comprising two units of less than 80 m² where it is a multiple unit dwelling.

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- e) No dwelling or garage shall be erected on any lot burdened having a roof of any material other than concrete tile or pre coated profiled metal material.
- f) 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 construction or to facilitate all reasonable landscaping of the allotment. No lot shall be permitted to be, appear or remain in an excavated or quarried state.

Name of authority empowered to release, vary or modify the terms of easement or restrictions numbered two, referred to in abovementioned plan:

LANDCOM and if **LANDCOM** shall no longer be in existence or shall not be the Registered Proprietor of any land comprised in the Plan of Subdivision, then the person for the time being registered as the proprietors of the land in the Plan of Subdivision having common boundaries with the land burdened shall possess such right.

Any release, variation or modification of these restrictions shall be made in all respects at the cost of the person requesting the same.

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PART 2 (cont.)

**Terms of easement, profit a prendre, restriction, or positive covenant numbered
three in the plan:**

- (a) No fencing shall be erected on any lot burdened unless it is constructed of timber with timber poles 100mm in diameter placed at both rear corners of the fence to enable free passage of koalas.
- (b) No swimming pool, detention basin or garden pond shall be erected on the lot burdened unless a rope of 50mm diameter or greater shall be affixed and left dangling at least 1m into the said swimming pool, detention basin or garden pond to allow koala escape.
- (c) No dogs shall be permitted to be kept within the subdivision.

**Name of authority empowered to release, vary or modify the terms of easement
or restrictions numbered three, referred to in abovementioned plan:**

Port Stephens Council.

**Any release, variation or modification of these restrictions shall be made in all
respects at the cost of the person requesting the same.**

Signed by me, WILLIAM SARKIS
as delegate of LANDCOM
who hereby declares that he has no
notice of revocation of the delegation
in the presence of:


N. CONDITIS


LANDCOM by its
delegate

REGISTERED  MB 5-B-2002