

FORM APPROVAL
No. B1192

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

DEED OF RESTRICTIVE COVENANT – Wellard Release
Homeslead Lots (Deposited Plan 58621)

(Note 1)

DEED dated 16 July 2008

BY HOUSING AUTHORITY of 99 Plain Street, East Perth formerly known as The State Housing Commission under the *Housing Act 1980* of 99 Plain Street, East Perth (HA)

RECITALS

- A. HA is the registered proprietor of the Land.
- B. HA intends to subdivide the Land.
- C. Pursuant to section 136D of the *Transfer of Land Act 1893* HA requires the Lots to be encumbered by the Restrictive Covenant so that the Restrictive Covenant will be noted on the Plan and when individual certificates of title issue for the Lots, the burden of the Restrictive Covenant is to be registered as an encumbrance on the certificates of title.

OPERATIVE PART

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless the context otherwise requires or a contrary intention appears:

Building Envelope means an area on the Lot as as defined on the Detailed Area Plan approved by the Town of Kwinana, where building and development is permitted;

Commercial Vehicle means any vehicle other than a passenger car licensed for private use, including but not limited to trucks, utilities, caravans, trailers, boats or any other mobile machinery;

Floor Area means the area between the external walls of the Outbuilding;

House means a permanent non-transportable residential dwelling;

Land means the land described in item 1 of the Schedule;

Lots means the lots described in item 2 of the Schedule;

Outbuilding means any buiding constructed on the Lot other than a House, including but not limited to any detached garage, workshop, garden shed or storage shed;

Plan means Deposited Plan 58621;

Primary Street means the public road reserve at the front of the House;

Restrictive Covenant means the Restrictive Covenant specified in item 3 of the Schedule;

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Residential Design Codes means Statement of Planning Policy No. 3.1 (Residential Design Codes of WA) published by the Western Australian Planning Commission;

Secondary Street means in the case where the Lot abuts more than one public road reserve, the public road reserve that is not the Primary Street;

Schedule means the Schedule to this Deed; and

Tree Preservation Area means the area outside the Building Envelope and behind the 5 metre front setback where building and development is prohibited and indigenous vegetation is protected.

1.2 Interpretation

- (a) A reference to a person includes a reference to the person's personal representatives, executors, administrators, successors and assigns and a reference to a corporation includes a reference to a corporation includes a reference to the corporation's successors and assigns.
- (b) A reference to any person if that person ceases to exist or is reconstituted, renamed or replaced or its powers or functions are transferred to any other person, refers respectively to the person established or constituted in its place or succeeding to its powers or functions.
- (c) An obligation, covenant, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them severally.
- (d) An obligation, covenant, representation or warranty on the part of 2 or more persons binds them jointly and each of them severally.
- (e) A reference to any thing includes the whole or any part of that thing and a reference to a group of things or persons includes each thing or person in that group.
- (f) A reference to a clause or paragraph, the Schedule or an annexure is a reference to a clause or paragraph in this Deed and the Schedule and the relevant annexure to this Deed respectively.
- (g) The index and all headings has been included for ease of reference only and they are not to be used to construe or interpret any part of this Deed.

2. SECTION 136D OF THE TRANSFER OF LAND ACT 1893

Pursuant to section 136D of the *Transfer of Land Act 1893*, HA requires each certificate of title which issues for the Lots to be encumbered by the Restrictive Covenant.

3. LAND TO BE BURDENED BY THE RESTRICTIVE COVENANT

HA intends the burden of the Restrictive Covenant to:

- (a) run with the land described in the certificates of title for the Lots; and
- (b) be enforceable by HA and each and every subsequent registered proprietor of the Lots.

4. LAND TO BE BENEFITED BY THE RESTRICTIVE COVENANT

HA intends the benefit of the Restrictive Covenant to be for the Lots.

5. TERM OF THE RESTRICTIVE COVENANT

The Restrictive Covenant shall expire and cease to have effect from and including 31 December 2014.

SCHEDULE

1. Land

Lot 9013 on Deposited Plan 57018, the whole of the land in Certificate of Title Volume 2684 Folio 742.

2. Lots

Lots 329 to 335 inclusive on the Plan.

3. Restrictive Covenant

The proprietors of each of the Lots will not:

3.1 Construct or permit to be constructed on the Lot any House unless with respect to each House:

- (a) a minimum of 80% of the area of all external walls (excluding windows) are constructed with bricks or masonry or Stone finished face work, painted render or rammed earth or any other material approved by HA;
- (b) roofs are constructed of materials which are not highly reflective, such as unpainted zincalume;
- (c) the House contains a carport or garage making provision for parking of not less than two motor vehicles, side by side with the vehicle entry fitted with a roller or sectional door;
- (d) the driveway and crossover between the public road reserve and the parking area on the Lot are constructed and completed prior to the occupation of the House;
- (e) the driveway and crossover are constructed of paved materials using brick or block paving or reconstituted limestone/concrete but not standard broom finished in-situ concrete or grey slabs; and
- (f) the side and rear boundaries of the Lot are fenced.

3.2 Commence, carry out, erect, construct or alter any development on the Lot without:

- (a) plans and specifications (including finishes schedules) being first submitted to and approved by HA; and
- (b) compliance with any condition (consistent with these covenants) imposed by HA in giving its approval.

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- 3.3 Construct or permit to be constructed or bring onto the Lot any Outbuilding which is not constructed in the same materials as the House on the Lot, unless the Outbuilding is not visible from the public road reserve or public open space, in which case it may be constructed of metal or other material with a neutral colour and a non-glare finish.
- 3.4 Construct or permit to be constructed on the Lot:
- (a) any fence forward of the building line unless such fence complies with the Residential Design Codes;
 - (b) any dividing fence unless such fence is behind the building line and is rural and open in nature;
 - (c) any dividing fence constructed of asbestos, fibro cement, pickets, sheet iron and/or any other material which detracts from the amenity;
 - (d) any side or rear boundary fence or gate unless it is constructed of complementary material to the fence; and
 - (e) any retaining walls that are within public view unless they are constructed to match in terms of both materials and finish other retaining walls, on the Land, that are within public view.
- 3.5 Take or permit any action to be taken to remove, alter, mark, or remove any wall or fence constructed by HA (unless additional blocks are required to be added for the purpose of retaining) on or about any of the boundaries of the Lot, permit such wall or fence to become damaged unsafe or fall into a state of disrepair, permit any roots or any tree, plant or building or other thing on the Lot to cause such wall or fence to become structurally unsound and repair or renew such wall or fence except in the same style and colour as the existing wall and fence.
- 3.6 Where the Lot is situated on a corner or intersection of two public road reserves, a House or fence, unless it is designed to address both the Primary Street and the Secondary Street in the following manner:
- (a) the House shall have habitable rooms facing both the Primary Street and the Secondary Street; and
 - (b) the Secondary Street elevation of the House shall be articulated and feature a suitable level of detail that is consistent with the Primary Street elevation.
- 3.7 Permit any building or development to take place outside of the Building Envelope, except driveways and boundary fences from the adjacent public road reserve to the front of the Building Envelope.
- 3.8 Permit any development (such development to include driveways, sheds, Outbuildings, storage of materials or disposal of waste) in the Tree Preservation Area.
- 3.9 Permit the removal of an indigenous tree, shrub or substantial vegetation from the Tree Preservation Area without the written approval of the Town of Kwinana, except for the purpose of a firebreak required by regulation or by-law and/or where the indigenous tree, shrub or substantial vegetation is considered dead, diseased or dangerous by the Town of Kwinana.
- 3.10 Permit any rubbish disposal containers on the Lot to be visible from any public road reserve or thoroughfare or public open space except on days allocated by the local authority for rubbish collection from the Lot.

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- 3.11 Permit any clothes hoist or satellite dish to be visible from any public road reserve or thoroughfare or public open space.
- 3.12 Permit any television antenna to exceed a height of 1 metre above the roofline of the House constructed on the Lot in the direction of reception, without approval from the Seller.
- 3.13 Permit newspaper, aluminium foil or similar materials to be used to cover windows within the House.
- 3.14 Permit any roof mounted airconditioning or evaporative cooling plant to be installed unless it is of similar colour to the roof of the House constructed on the Lot or otherwise, it does not protrude above any ridgeline/gable or it is not visible from the adjacent public road reserve or public open space.
- 3.15 Permit any solar hot water system to be installed unless it matches the profile of the House constructed on the Lot and, where any solar hot water system is visible from the adjacent public road reserve or public open space, it must be a split system and must not be installed above ground level or within public view.
- 3.16 Construct any letterbox unless it is on the front boundary of the Primary Street, clearly numbered and complementing the House constructed on the Lot.
- 3.17 Permit any real estate agents' 'for sale' signs to be erected on the Lot until construction of the House is completed.
- 3.18 Permit garden areas on the Lot and within public view (including adjoining public road reserve verges) to remain unlandscaped after three months of practical completion of any House on the Lot or in the case of a display House constructed on the Lot, after practical completion of the display House on the Lot.
- 3.19 Carry out or permit to be carried out on the Lot any repairs, restorations or wrecking of any motor vehicle, boat, trailer or any other vehicle unless screened from public view at all times.
- 3.20 Park or allow to be parked on the Lot or on any public road reserve or on any other Lot near or next to the Lot any Commercial Vehicle unless such Commercial Vehicle is housed or contained within a carport or garage on the Lot or screened behind the building line, unless when used during the normal course of business by a visiting tradesperson.
- 3.21 Permit any roller shutter to be fitted to any window or doorway visible from a public road reserve or open space unless it is a garage or carport door.

4. Encumbrances

Nil.

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EXECUTED as a Deed

THE COMMON SEAL of the HOUSING)
AUTHORITY formerly known as THE)
STATE HOUSING COMMISSION OF)
WESTERN AUSTRALIA was hereunder)
affixed in accordance with the Housing Act 1980)
and the Regulations made thereunder by)
authority of its Members in the presence of:)



W Robert
Manager, Securities Conveyancing and
Settlement Services

Mr L
~~Director General~~
Chief Executive Officer *ME*
R

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INSTRUCTIONS

1. This form may be used only when a 'Box Type' form is not provided or is unsuitable. It may be completed in narrative style.
2. If there is insufficient space Additional Sheet, Approval No B1191, should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an adult person. The address and occupation of the witness must be stated.

EXAMINED

CP

K658058 RC

17 Jul 2008 09:43:47 Perth



REG \$ 88.00

LODGED BY

ADDRESS

PHONE NO

FAX NO

REFERENCE

ISSUING BOX NO.

DEPARTMENT OF HOUSING & WORKS
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 PH: 9222 4882 FAX: 9222 4892

PREPARED BY

Minter Ellison

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 PERTH WA 6000

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EKC: JLP 60-1356369
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1.	_____	Received items
2.	_____	
3.	_____	Nos. <i>PH</i>
4.	_____	
5.	_____	
6.	_____	Receiving Clerk

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



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