

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

DEED OF RESTRICTIVE COVENANT - The Village at Wellard
Releases 30 - 35 Stage 9 (Deposited Plan 62680)

(Note 1)

DEED dated *30 July* 2009

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:

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

Encumbrances means the encumbrances reservation and notification described in item 4 of the Schedule;

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 building 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 62680;

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;
and

Schedule means the Schedule to this Deed.

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 have 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 9017 on Deposited Plan 58627, the whole of the land in Certificate of Title Volume 2723 Folio 704.

2. Lots

All Lots on the Plan except Lots 1001 and 9018.

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 limestone finished face work, painted render or rammed earth or any other material approved by HA;
- (b) roofs are pitched at an angle of not less than 24.3 degrees or greater than 42 degrees unless it is demonstrated to HA's satisfaction the merit of the design of low mono pitched skillion or flat roofs;
- (c) the House contains a carport or garage making provision for parking of not less than two motor vehicles, side by side;
- (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 carports and garages that are accessed from a rear laneway are fitted with a roller or sectional door to ensure security.

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.

3.3 Construct or permit to be constructed or bring onto the Lot any Outbuilding which exceeds 10 m² in Floor Area or more than 2 metres in height above the natural surface level of the Lot or visible from any public road reserve or open space unless constructed in the same materials as the House or Houses (as the case may be) on the Lot.

3.4 Leave any side and rear boundaries unfenced.

3.5 Construct or permit to be constructed on the Lot:

- (a) any fence abutting any public road reserve greater than 8 metres wide unless:
 - (i) the front fence is constructed with rendered brick or limestone piers to a

maximum height of 1.2 metres and infilled with either solid rendered masonry or visually permeable panels to a maximum height of 1.0 metre, or tall fencing with rendered brick or limestone piers to a maximum height of 1.5 metres and infilled to a maximum height of 1.3 metres with visually permeable panels or solid rendered masonry to a maximum height of 1.0 metre with visually permeable material on top;

- (ii) any side fence is constructed and infilled with either solid rendered masonry or proprietary brand, capped colourbond metal fencing in the colour 'Teatree' or visually permeable panels to a maximum height of 1.8 metres. Any side fence is to extend for a distance of two thirds of the side boundary from the rear boundary and the remaining one third of the side boundary to be constructed in accordance with clause 3.5(a)(i); or
 - (iii) such fence is erected or constructed by HA.
- (b) any fence forward of the building line unless:
- (i) such fence is constructed of rendered brick or limestone piers to a maximum height of 1.2 metres and infilled with either solid rendered masonry or visually permeable panels to a maximum height of 1.0 metre or tall fencing with rendered brick or limestone piers to a maximum height of 1.5 metres and infilled to a maximum height of 1.3 metres with visually permeable panels or solid rendered masonry to a maximum height of 1.0 metre with visually permeable material on top; or
 - (ii) such fence is erected or constructed by HA.
- (c) any fence abutting any rear laneway unless such fence is constructed and infilled with either solid rendered masonry or proprietary brand, capped colourbond metal fencing in the colour 'Teatree' including a component of visually permeable panels, with solid fencing limited to storage/service areas;
- (d) any dividing fence unless such fence does not project past the front building line and is constructed to a maximum height of 1.8 metres of proprietary brand, capped colourbond metal fencing in the colour 'Teatree'; and
- (e) any side or rear boundary fence or gate unless it is constructed of complementary material to the fence.

3.6 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.

3.7 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.

3.8 Permit any clothes hoist or satellite dish to be visible from any public road reserve or thoroughfare or public open space.

3.9 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.

- 3.10 Permit newspaper, aluminium foil or similar materials to be used to cover windows within the House.
- 3.11 Permit any roof mounted airconditioning or evaporative cooling plant to be installed unless it is of similar colour to the roof of the House.
- 3.12 Permit any solar hot water system to be installed on the roof unless it matches the profile of the House constructed on the Lot.
- 3.13 Construct any letterbox unless it is on the front boundary of the Primary Street, clearly numbered and complementing the House constructed on the Lot.
- 3.14 Permit any real estate agents' 'for sale' signs to be erected on the Lot until construction of the House is completed.
- 3.15 Construct or permit to be constructed on the Lot any retaining wall which is visible from any public space unless such retaining wall matches, in terms of both materials and finishes of other retaining walls on the Land erected or constructed by HA.
- 3.16 Permit garden areas on the Lot and within public view (including adjoining public road reserve verges) to remain unlandscaped after six months of occupation 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.
- 3.17 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.
- 3.18 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.

4. Encumbrances

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:



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[Handwritten signature]

~~Manager, Securities Conveyancing and Settlement Services~~

AUTHORISED OFFICER

[Handwritten signature]

~~Director General~~

AUTHORISED OFFICER

[Handwritten initials]

[Handwritten initials]

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

L 25672 CP
31 Jul 2009 09:35:55 Perth
REG 5 11000

LODGED BY
ADDRESS **DEPARTMENT OF HOUSING & WORKS**
99 PLAIN STREET
EAST PERTH W.A. 6004
D.O.L.A. BOX 158L
PHONE No: 9222 4666 Fax: 9222 4892
FAX NO.
REFERENCE 2009/21325
ISSUING BOX NO.

PREPARED BY **Minter Ellison**
ADDRESS Level 49 Central Park
152-158 St George's Terrace
PERTH WA 6000
PHONE NO. (08) 9429 7444 FAX NO. (08) 9429 7666
REFERENCE BPA: JLP 60-1409190
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INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

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TITLES, LEASES, DECLARATIONS ETC LODGED HERewith

1.	_____	Received items
2.	_____	
3.	_____	Nos.
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

