

BLANK INSTRUMENT FORMDEED OF RESTRICTIVE COVENANT – Jindowie Stage 18B
(Deposited Plan 418821)

(Note 1)

DEED dated

2019

BY **HOUSING AUTHORITY** of 99 Plain Street East Perth WA 6004 (**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 Vehicles means any commercial vehicles which have an aggregate weight greater than 3.5 tonnes or any caravans, trailers, boats or any other mobile machinery;

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 workshop, garden shed, storage shed or other building;

Plan means Deposited Plan 418821;

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 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. VALIDITY AND ENFORCEABILITY

Each of the restrictive covenants specified in item 3 of the Schedule is a separate and distinct covenant and if any covenant or its application to any person or circumstances is or becomes invalid or unenforceable then the remaining covenants will not be affected and each remaining covenant will be valid and enforceable to the fullest extent permitted by law.

6. TERM OF THE RESTRICTIVE COVENANT

The Restrictive Covenant shall expire and cease to have effect from and including 1 January 2025.

SCHEDULE

1. Land

Lot 9041 on Deposited Plan 417863, being the whole of the land in Certificate of Title Volume 2978 Folio 156.

2. Lots

All lots on the Plan except Lot 9042.

3. Restrictive Covenant

The proprietors of each of the Lots will not:

3.1 Land use

use or permit the Lot to be used other than for residential purposes.

3.2 House

construct or permit to be constructed on the Lot any house which is transportable or otherwise not of a permanent nature.

3.3 Building materials

construct or permit to be constructed on the Lot any house unless:

- (a) subject to items 3.3(b) and 3.3(c), all external walls (excluding windows) are constructed with bricks or masonry or limestone finished face work or painted render or any other materials approved by HA at HA's absolute discretion;
- (b) the walls to the front of the house facing the street are constructed with a combination of face brick and render, or two different renders; and
- (c) the house has at least one feature (for example, planter box, gable or gablet, portico, archway, protruding sill course to windows, blade wall or feature wall) to the front elevation.

3.4 Roofs

construct or permit to be constructed on the Lot any house unless with respect to each house:

- (a) the roof (excluding any part of the roof which covers verandah areas) is pitched at an angle of not less than 23 degrees;
- (b) the roof is a skillion roof design or a flat roof behind parapets;
- (c) any flat roof is not visible from the public street; and
- (d) the roof is covered with tiles or Colorbond (no zincalume or any other materials).

3.5 Carports and garages

construct or permit to be constructed on the Lot any house unless:

- (a) the garage or carport is constructed using the same materials as the house except where the garage or carport is screened from the street view;
- (b) the driveway and crossover between the road and the parking area on the Lot are constructed and completed; and
- (c) the driveway and crossover are constructed of paved materials or any other materials approved by HA in HA's absolute discretion.

3.6 Sheds/outbuildings

construct or permit to be constructed any Outbuilding visible from any road declared as main road in the Government gazette or any Outbuilding which exceeds 20m² in floor area or which is more than 2.2 metres in wall height and 2.5 metres in gable height unless approved by HA.

3.7 Vehicle repairs

carry out or permit to be carried out any repairs or restorations of any motor vehicle, boat, trailer, aircraft, mobile machinery or any other vehicle on the Lot unless it is wholly within a garage on the Lot and is screened from public view at all times.

3.8 Landscaping

permit any garden areas on the Lot and within public view to remain unlandscaped after three months of practical completion of the house on the Lot.

3.9 Appearance

- (a) permit any Commercial Vehicles to be parked on the Lot, on the road or on any other land near to or next to the Lot unless the Commercial Vehicles are parked or contained wholly within the garage on the Lot or are screened from public view;
- (b) permit:
 - (i) any rubbish, trash, garbage or other waste material to be accumulated or kept on the Lot or any part of the Lot; or
 - (ii) any rubbish disposal containers on the Lot to be in front of the building line except on days allocated by the local authority for rubbish collection from the Lot;
- (c) permit any 'For Sale' sign to be erected on the Lot within any time prior to the second anniversary of the date of registration of the transfer of the Lot by HA;
- (d) permit the installation of any air conditioning unit that:
 - (i) protrudes greater than 500mm above the ridgeline of the house; and
 - (ii) is not of a similar colour to the roof;
- (e) permit the installation of any solar hot water unit that is not integrated with and matches the roof profile of the house;
- (f) permit the installation of any air conditioning unit, solar hot water system or other machinery or equipment to the front roof hip or fascia;
- (g) permit any washing line or clothes hoists to be erected that is visible from any public street or thoroughfare;
- (h) permit any satellite dish to be visible from the street on which the house is located;
- (i) permit TV antennas to be visible above the roofline from the street on which the house is located;
- (j) permit the installation of any letterbox unless clearly numbered and complementing the house constructed on the Lot; and
- (k) permit the installation of any temporary window treatments such as paper, plastic, cotton sheeting or foil to be affixed to the windows visible from any public street or thoroughfare.

3.10 Fencing

- (a) construct or permit to be constructed on the Lot any side or back fence abutting any public open space or public reserve or road reserve unless such fence is constructed of Smartascreen Colorbond, limestone or the same brick as any house on the Lot and is not less than 1.8 metres high;
- (b) construct or permit to be constructed on the Lot any boundary fence unless such fence is constructed of Smartascreen Colorbond, brick or limestone or other similar material at a height of 1.8 metres;
- (c) construct any Smartascreen Colorbond fence unless the colour of the fence is 'grey ridge';
- (d) take or permit any action to be taken to remove, alter or mark any wall or fence constructed by HA (unless additional blocks are required to be added to a retaining wall) 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, material and colour as the existing wall and fence;

- (e) construct or permit to be constructed any gates unless such gates are constructed of materials which are complementary to the boundary fence;
- (f) construct or permit to be constructed any fencing forward of the front building line unless such fencing consists of side and front fencing together, constructed of brick, rendered brick or limestone piers and infilled with timber or wrought iron, or a painted timber picket fence no greater than 1.2 metres in height;
- (g) construct a house unless all front, side and rear boundary fencing are constructed and completed at the same time or prior to occupation of the house;
- (h) construct or permit to be constructed any fence at, or forward of the front building line which:
 - (i) exceeds 1.2 metres in height;
 - (ii) has more than 740 millimetres in height of the fence constructed of solid and impermeable materials; or
 - (iii) is constructed from fibre cement sheeting or material sheeting products.

4. **Encumbrances**

Nil

EXECUTED as a Deed

The common seal of Housing Authority
was hereunto affixed in the presence of:

Signature of Authorised Officer

Signature of Authorised Officer

Full name of Authorised Officer

Full name of Authorised Officer

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, Form B1, 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 full name, address and occupation of the witness must be stated.

OFFICE USE ONLY

LODGED BY

ADDRESS

PHONE NO.

FAX NO.

REFERENCE

ISSUING BOX NO.

PREPARED BY: HOUSING AUTHORITY

ADDRESS: 99 PLAIN STREET, EAST PERTH

PHONE No. 08 9222 4788

REF: JINDOWIE STAGE 18B

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

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|----|-------|-----------------|
| 1. | _____ | Received items |
| 2. | _____ | |
| 3. | _____ | Nos. |
| 4. | _____ | |
| 5. | _____ | Receiving Clerk |
| 6. | _____ | |

EXAMINED

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.