

OSPREY WATERS AT MANDURAH, WA - STAGE 2B

**ANNEXURE "B"
RESTRICTIVE COVENANTS**

The Restrictive Covenants referred to in clause 2 of Annexure "A" are as follows:

"The registered proprietor for itself, its successors in title, and its transferees and assigns, covenants and agrees with the Transferor, its successors in title, and its assigns, to the intent that the same shall run at law and in equity with the Lot:

(a) **Dwellings**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Transferor or the Transferor's Agent any dwelling(s) other than private, non-transportable dwelling(s), designed in compliance with the mandatory requirements of the Guidelines, it being agreed that the copying and direct application of imported styles (such as 'Federation', 'Mediterranean', and 'Tuscan'), excessive stick-on mouldings, and 'Classical/Tudor'-style elements are not permitted.

(b) **Excess materials**

not to store any excess building materials on the Lot.

(c) **Retaining walls**

not to construct any retaining wall on the Lot except in the same materials and colours as the existing retaining walls, and in compliance with the Guidelines.

(d) **Television antennae, etc**

not to install or erect or permit the installation or erection of any TV antenna, satellite or cable dish or radio mast except in accordance with the manufacturer's instructions and in a location that is visually unobtrusive from immediately adjacent streets and parks.

(e) **Signage**

not to erect or display on the Lot any sign hoarding or advertising of any description whatsoever, except for professional signage advertising the sale or lease of a fully completed dwelling constructed on the Lot. Any sign or advertising material erected or displayed on the Lot in breach of this covenant may be removed without notice by the Transferor's Agent.

(f) **Display homes**

not to use the Lot or any dwelling constructed on the Lot for the purposes of a builder's display home or display village, unless first approved by the Transferor's Agent.

(g) **No disrepair**

not to permit or allow the Lot or any part of it, including any dwelling, to fall into a state of disrepair or disorder.

(h) **Winter Solar Access**

(i) *in respect of an East-West Lot, not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling if:*

(A) *the dwelling does not possess a minimum of one Living Area (with one major opening) that is located on the northern side of the Lot; and*

(B) *the dwelling's private outside courtyard is not located on the northern side of the Lot;*

(ii) *in respect of a North-South Lot, not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling if:*

(A) *the dwelling does not possess a minimum of one Living Area (with one major opening) that is located at the rear of the Lot and at the best location for northern sunlight to enter; and*

(B) *the dwelling's private outside courtyard is not located at the rear of the Lot and at the best location for northern sunlight to enter,*

as determined, in the case of each of subparagraphs (i) and (ii), by the Transferor or the Transferor's Agent, and as confirmed in writing by either of them, provided that if it can be proven to the satisfaction of the Transferor or the Transferor's Agent (as the case may be) that winter sun will penetrate into the dwelling in a substantial manner, then the obligation to locate the private outside courtyard to the north of the Lot will not apply.

(i) **Garage Setback and Design**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Transferor or the Transferor's Agent:

- (i) a garage, unless it possesses a setback that is a minimum of 1 metre behind the Dwelling Elevation, provided that a garage that faces onto a Secondary Street is exempt from this requirement;
- (ii) a garage that:
 - (A) has a garage door that does not face the street;
 - (B) has a garage door opening that is wider than 6 metres;
 - (C) does not have 2 side-by-side enclosed car spaces;
 - (D) allows for the parking of more than 2 vehicles, unless the additional vehicles can be parked in tandem form; or
 - (E) has a garage door:
 - (I) that is patterned; or
 - (II) that is not a timber colour, or is a 'Colorbond' colour that is other than a neutral base colour. (For example: primary and dark colours such as grey, brown, black, and purple are not permitted.)

(j) **Parking Large Vehicles, etc.**

not to park any Commercial Vehicle on the Lot unless it is not visible from the street.

(k) **Finished Floor Level**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling, including its garage, which possesses a finished floor level in respect of its ground floor slab that is more than 300 millimetres above the as-constructed Lot level.

(l) **Elevations**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- (i) a single or two-storey dwelling that does not possess Overhanging Eaves on all elevations (garages are exempt);
- (ii) in respect of the publicly-visible elevations of a two-storey dwelling, a dwelling that does not possess a projecting horizontal corbel feature or

contrast in a different material or colour to the rest of the elevation (at a balcony or upper floor slab level);

(iii) a dwelling that has publicly-visible elevations (including both visible elevations of a dwelling on a Corner Lot) that do not include major openings and habitable living rooms;

(iv) a dwelling that has publicly-visible elevations that are not carefully articulated via the inclusion of one or more integrated feature elements. Acceptable feature elements include:

(A) a verandah with a separate roof and supporting posts, pillars, or piers (which covers a minimum of 30% of the front elevation excluding the garage/carport, and at least 1.5 metres in depth);

(B) an entry feature such as a portico, masonry gateway wall, or entry pergola;

(C) a balcony;

(D) a projecting blade wall in a feature colour/material (that is a minimum 500 millimetres in width and that projects at least 300 millimetres above the eaves);

(E) a built in planter box (being at least 1 metre in length);

(F) a roof feature such as a Gambrel or end Gable; or

(G) a window hood.

(v) a dwelling, the Primary Elevation (excluding windows and doors) of which does not use two colours and/or materials. Such materials may include:

(A) render;

(B) brick;

(C) weatherboard;

(D) stone; and

(E) any other cladding approved in writing by the Transferor or the Transferor's Agent prior to installation.

- (vi) *a dwelling that has a main entry door that is not clearly visible from the street;*
- (vii) *a dwelling which does not have openings and glazings that are generally of a vertical proportion and that are consistent in shape and style;*
- (viii) *a dwelling that possesses horizontal and square windows unless, in the opinion of the Transferor or the Transferor's Agent, as confirmed in writing, they are integral to the overall design of the dwelling;*
- (ix) *a dwelling that has a visible parapet wall on the neighbour's side that is not finished to match the quality of the main elevation; or*
- (x) *a dwelling that has curved or reflective glass that faces the public realm.*

(m) **Roofs**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- (i) *a dwelling with a roof that:*
 - (A) *does not possess a traditional roof pitch of at least 24.5 degrees, provided however that minor integrated roofs, such as verandahs, may be lower;*
 - (B) *does not possess Overhanging Eaves (garages are exempt);*
 - (C) *does not have at least a 300 millimetre Gable overhang;*
 - (D) *has a skillion roof pitch of less than 5 degrees;*
- (ii) *a dwelling that has a minor area of flat roof which is not screened by a parapet wall; or*
- (iii) *in the case of a dwelling (other than its garage) that partly abuts a boundary of the Lot, a parapet wall (with box gutter) that does not extend to meet the full depth of the eave.*

(n) **Materials and Colours**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Transferor or the Transferor's Agent:

- (i) *subject to paragraph (n)(ii), a dwelling that has main wall material in publicly-visible areas that is not comprised of:*
 - (A) *masonry with painted render;*
 - (B) *limestone block; or*
 - (C) *rammed earth,*
 - (ii) *a dwelling that has main wall material in publicly visible areas that is comprised of visible face brickwork unless it is used as a feature;*
 - (iii) *a dwelling that has main wall colour in publicly-visible areas that is not a light-neutral base colour. (For example: primary and dark colours such as grey, brown, black, and purple are not permitted.); or*
 - (iv) *a dwelling that has a red, green, or terracotta-coloured roof, or a roof the colour of which is not classified as either 'medium' or 'light' according to the 'New South Wales Building and Sustainability Index' (BASIX) with a solar absorptance rating of less than 0.70.*
- (o) **Fences and Letterbox**
- (i) *not to construct, erect or install or permit to be constructed, erected or installed on the Lot:*
 - (A) *front fencing, which, when viewed from the street or a public space, is:*
 - (I) *higher than 1 metre;*
 - (II) *not visually permeable above the height of 300mm; and*
 - (III) *not consistent with or complementary to the primary street elevation's finishes;*
 - (B) *return and dividing fences (side and rear) behind the building line that:*
 - (I) *do not commence 0.5 metres behind the building line; and*
 - (II) *are not constructed of 'Colorbond' that is of the colour 'Grey Ridge';*
 - (C) *fencing on the Secondary Street boundary of a Corner Lot that:*

- (I) *does not have a setback of at least 4 metres from the corner truncation;*
 - (II) *which is not constructed of 'Colorbond' that is of the colour 'Grey Ridge' (unless otherwise approved in writing by the Transferor or the Transferor's Agent); and*
 - (III) *that exceeds 1.8 metres in height.*
- (D) *any new, publicly-visible retaining wall unless it is constructed from limestone;*
- (E) *a letterbox, unless it is located on the site plan; and*
- (ii) *not to alter any existing retaining walls or fences that have been constructed by the Transferor without first requesting and obtaining the Transferor's or the Transferor's Agent's prior written approval.*
- (p) **Driveway**
- (i) *not to construct, erect or install or permit to be constructed, erected or installed on the Lot a driveway which does not, in the opinion of the Transferor or the Transferor's Agent, as confirmed in writing by either of them, possesses a finish that complements the dwelling and landscape design; and*
 - (ii) *not to alter, damage, or remove any existing footpaths that have been installed by the Transferor.*
- (q) **Outbuildings**
- not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Transferor or the Transferor's Agent, an Outbuilding, unless the Outbuilding is concealed from public view. However, if the Transferor or the Transferor's Agent does exceptionally grant an approval in respect of an Outbuilding that would be publicly visible, then that Outbuilding must not be:*
- (i) *more than 2 metres in height (i.e., 0.2 metres above a permitted boundary fence); or*
 - (ii) *greater than 16 square metres in area,*
- unless the Outbuilding is constructed from materials that match the materials, colour, and style of the dwelling.*

(r) **Solar Access**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling that does not have at least one Living Area and one major opening that faces north to receive winter sun.

(s) **Energy Reduction**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- (i) *a dwelling that does not have at least one bathroom which includes an external window that can be opened; or*
- (ii) *a dwelling that does not have openings that are located to so as to promote cross ventilation to enable passive cooling of the dwelling and to reduce reliance on mechanical heating.*

(t) **Services**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- (i) *any pipes, wired services, clothes drying areas, hot water storage tanks, gas and electricity meter boxes, and other such service items unless those items are screened from public view; and*
- (ii) *any air conditioning unit unless:*
 - (A) *it is visually and acoustically screened from the street and any Secondary Street; and*
 - (B) *in the case of a roof-mounted compressor unit, the unit:*
 - (I) *is located at the rear of the dwelling and behind the highest roof ridgeline;*
 - (II) *matches the colour of the roof; and*
 - (III) *is placed in a position on the roof that is the least visually-intrusive when viewed from the adjoining neighbours' properties (as determined by the Transferor or the Transferor's Agent).*

(u) **Solar Hot Water Systems**

not to construct, erect or install or permit to be constructed, erected or installed on the roof of any dwelling on the Lot, solar panels that can be seen from the street, unless they are part of a split system in which the water tank is located in a position on the Lot that is not visible from the street.

(v) **Bin Store**

not to construct, erect or install or permit to be constructed, erected or installed on the Lot a waste bin store area unless it is concealed from public view.

(w) **Duration of Restrictive Covenants**

The above Restrictive Covenants shall enure for the benefit of and run at law and in equity with every allotment on the plan of subdivision of which the Lot forms part until 31 December 2034 to the intent that the same shall bind the registered proprietor, its transferees, executors, administrators, successors in title and assigns for the benefit of the registered proprietor or proprietors of the remainder of the Lot comprised in the said plan of subdivision or any part or parts thereof.

(x) **Definitions**

In the Restrictive Covenants set out in paragraphs (a) to (v) above the following words have the following meanings:

Commercial Vehicle *includes, without limitation, trucks, buses, motor homes, utility vehicles, caravans, trailers, boats (including recreational boats) and any form of mobile machinery;*

Corner Lot *means each of Lots 201, 205, 206, 209, 212, 238, and 243;*

Dwelling Elevation *means and includes projecting feature elements such as a porch or a verandah;*

East-West Lot *means each of Lots 201 to 209 (inclusive), 233 to 237 (inclusive), 244 to 248 (inclusive), and 265 to 269 (inclusive);*

Gable *means the triangular top section of a wall that fills the space beneath where the slopes of a two sided pitch roof meet;*

Gambrel *means triangular feature within a hipped roof structure;*

Guidelines *means the 'Osprey Waters Design Guidelines' with respect to the land subdivision of which the Lot comprises a part and which comply with the specifications of the City of Mandurah;*

Living Areas means a dwelling's lounge rooms, dining rooms, kitchen, and entertainment rooms;

North-South Lot means each of Lots 210 to 232 (inclusive), 238 to 243 (inclusive), 249 to 264 (inclusive), and 294 to 340 (inclusive);

Overhanging Eaves means eaves that are not less than 350 millimetres in width;

Outbuilding means a shed, storeroom, studio, or workshop, or granny flat or other such structure that does not comprise part of the dwelling;

Primary Elevation means the elevation of the dwelling which is usually inclusive of the main entry and the majority of its architectural features;

Secondary Street means any street that the Lot does not primarily front;

Transferor means the registered proprietor of the Land at the time of registration of these restrictive covenants on the Certificate of Title to the Land; and

Transferor's Agent means Mirvac Real Estate Pty Ltd (ACN 003 342 452) of Level 3, 502 Hay Street, Subiaco, Western Australia."