

### 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 insufficient space hereon 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 address and occupation of the witness must be stated.

K357467 RC

26 Sep 2007 14:25:44 Perth



REG \$ 85.00

LODGED BY Wojtowicz Kelly Legal  
ADDRESS Level 2, 11 Mounts Bay Rd, Perth  
PO Box 7432  
Cloisters Square  
PERTH WA 6850  
PHONE No. 08 9460 5000  
FAX No. 08 9460 5001  
REFERENCE No. CEO/20889  
ISSUING BOX No. 337L

PREPARED BY Wojtowicz Kelly Legal  
ADDRESS Level 2, 11 Mounts Bay Rd, Perth  
WA 6000  
PHONE No. 9460 5000 FAX No. 9460 5001

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

TITLES, LEASES, DECLARATIONS ETC. LODGED HERewith

1. _____	Received Items
2. _____	Nos.
3. _____	
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.

EXAMINED



### **SCHEDULE C**

The registered proprietor for the time being of each Ocean Frontage Lot ("the Ocean Frontage Lot") covenants not to construct, erect or install or permit to be constructed, erected or installed on the Ocean Frontage Lot without the prior written approval of the Developer or its agent:

- (a) Any free-standing structure (including a garden shed) of 6 square metres or less, unless such structure:
  - i. Is substantially hidden from public view from immediately adjacent streets and parks;
  - ii. Is not constructed of zincalume or any other significantly reflective material; and
  - iii. Has a wall that does not project above the height of any surrounding boundary fence by more than 300mm.
- (b) Any free-standing structure (including a garden shed) in excess of 6 square metres, unless such structure matches the dwelling in respect of materials used, design and external appearance including colour and quality of construction.

## **SCHEDULE B**

The registered proprietor for the time being of each Beach Precinct Lot ("the Beach Precinct Lot") covenants not to construct, erect or install or permit to be constructed, erected or installed on the Beach Precinct Lot without the prior written approval of the Developer or its agent:

- (a) Any free-standing structure (including a garden shed) of 9 square metres or less, unless such structure:
  - i. Is substantially hidden from public view from immediately adjacent streets and parks;
  - ii. Is not constructed of zincalume or any other significantly reflective material; and
  - iii. Has a wall that does not project above the height of any surrounding boundary fence by more than 300mm.
- (b) Any free-standing structure (including a garden shed) of greater than 9 square metres but less than 36 square metres, unless such structure:
  - i. Is substantially hidden from public view from immediately adjacent streets and parks;
  - ii. Is constructed with a pitched roof;
  - iii. Is not constructed of zincalume or any other significantly reflective material;
  - iv. Has a wall that does not project above the height of any surrounding boundary fence by more than 600mm;
  - v. Has been approved in writing by the registered proprietor of each lot surrounding the land on which such structure is erected; and
  - vi. Is of similar colour to that of the housing materials.
- (c) Any free-standing structure (including a garden shed) in excess of 36 square metres, unless such structure matches the dwelling in respect of materials used, design and external appearance including colour and quality of construction.

- (vii) Not to neglect the maintenance of front yard landscaping.
- (viii) 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 house 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 Developer or its agent.

## SCHEDULE A

The registered proprietor for the time being of each Lot ("the Lot") covenants:

- (i) Not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Developer or its agent:
  - (a) Any dwelling other than a single, private, non-transportable dwelling house having a floor area of 190 square metres or more and being constructed predominantly of clay face brick, painted cement rendered brick or stone elevations. The area of such dwelling is to be calculated so as to exclude any areas comprised in any garages, storerooms, verandas, balconies, pergolas and out-buildings of any nature whatsoever;
  - (b) Any dwelling having a roof pitch of less than 20 degrees or greater than 40 degrees, or any dwelling with a roof constructed of zincalume or any other significantly reflective material;
  - (c) Any dwelling house without, at the same time providing an enclosed garage for not less than two motor vehicles, parked side by side, which:
    - i. Includes a garage door sufficient to completely screen the interior of the garage from the street;
    - ii. Is built under the main roof of the dwelling, or constructed in a manner that matches the dwelling house in respect of the design, materials used, roof pitch and external appearance, including colour and quality of appearance;
    - iii. Includes a driveway and cross-over constructed of brick paving or a poured limestone product and extending to the road kerbs. The driveway and crossover shall be of the same material;
  - (d) Any dwelling situated on a corner lot which does not address both streets (i.e. by providing bay window, brick gable, return veranda etc);
  - (e) Any retaining wall that faces a street frontage unless constructed of limestone blocks of substantially the same colour, texture, size and finish as those used in the surrounding area to the satisfaction of the Developer or its agent;
  - (f) Any side boundary fence that faces a street frontage unless such fence is constructed of Midland Colonial Limestone or other brick of substantially the same size, colour and texture to the satisfaction of the Developer;
  - (g) Any alteration to any existing fence already erected on any boundary of the Lot at the date of purchase by the registered proprietor;
  - (h) Any fence (other than an existing fence already erected on any boundary of the Lot at the date of purchase by the registered proprietor) unless constructed of pine lap, limestone or masonry (or some combination thereof) at a nominal height (i.e. excluding any retaining wall on which the fence is constructed) of 1.8 metres;
  - (i) Any fence forward of the front building line of the dwelling house or any fence to the front boundary facing the street;
  - (j) Any structure attached to the dwelling house, unless such structure matches the dwelling house in respect to materials used, design and external appearance including colour and quality of construction, unless it is hidden from public view.
- (ii) Not to park or allow to be parked on the Lot or on the road reserve next to or adjacent to the Lot any commercial vehicles including trucks, utilities, caravans, boats, trailers, or any other mobile machinery ("Commercial Vehicles") unless such Commercial Vehicles are housed or contained wholly within the Lot and are hidden from public view.
- (iii) Not to permit the construction or erection of a hot water heater, clothes line, satellite or cable dish, or rainwater tank except in accordance with the manufacturers instructions and which is hidden from public view.
- (iv) Not to permit the construction or erection of an air conditioner or evaporative cooler except in accordance with the manufacturer's instructions and which is of a similar colour to the roof.
- (v) Not to damage, alter, extend, build up or affect the visual appearance of any retaining wall on the Lot unless first approved by the Developer or its agent.
- (vi) Not to remove or damage or permit to die any tree provided to the Lot or the road verge in front of or to the side of the Lot, unless first approved by the Developer or its agent.

**EXECUTED AS A DEED:**

Executed for and on behalf of **TRUST COMPANY LIMITED (ACN 004 027 749)** by its duly appointed Attorneys pursuant to **Power of Attorney No. J634986** registered in the State of Western Australia

*D. J. Cooper*  
Attorney Signature  
*Darren Cooper*  
Attorney Full Name

*Colin Leo Cooper*  
Attorney Signature  
COLIN LEO COOPER  
Attorney Full Name

Witness Signature: *Lucas Berry*  
Witness Full Name: *Lucas Berry*  
Witness Address: *38 Ouston St Mosman Park 6012*  
Witness Occupation: *Assistant Development Manager*

Witness Signature: *Lucas Berry*  
Witness Full Name: *Lucas Berry*  
Witness Address: *38 Ouston St Mosman Park 6012*  
Witness Occupation: *Assistant Development Manager*

**"Schedule B Restrictive Covenants"** means the restrictive covenants set out in Schedule B of this Deed;

**"Schedule C Restrictive Covenants"** means the restrictive covenants set out in Schedule C of this Deed; and

**"Specified Encumbrances"** means:

- (a) Mortgage **J562833** in favour of Bank of Western Australia Ltd;
- (b) Mortgage **J562834** in favour of Mirvac Mandurah Pty Ltd;
- (c) Easement burden created under section 27A of the Town Planning and Development Act (for sewerage purposes to Water Corporation) - see Deposited Plan 55247 as created on Deposited Plan 49114;
- (d) Easement burden created under section 167 of the Planning and Development Act (for sewerage purposes to Water Corporation) - see Deposited Plan 55247 as created on Deposited Plan 52105; and
- (e) Easement burden created under section 167 of the Planning and Development Act (for sewerage purposes to Water Corporation) - see Deposited Plan 55247.

## 1.2 Interpretation

In this document unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations;
- (d) references to a party hereto or to any other person include the legal personal representatives, successors and permitted assigns of that party or person;
- (e) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (f) any obligation incurred by two or more parties shall bind them jointly and severally and an obligation incurred in favour of two or more parties shall be enforceable by them jointly and severally; and
- (g) headings shall be ignored in construing this document.

## 2. RESTRICTIVE COVENANTS

- (a) Each of the Lots is to be encumbered by the Schedule A Restrictive Covenants.
- (b) Each of the Beach Precinct Lots is also to be encumbered by the Schedule B Restrictive Covenants.
- (c) Each of the Ocean Frontage Lots is also to be encumbered by the Schedule C Restrictive Covenants.
- (d) The burden of the Restrictive Covenants shall run with each of the Lots for the benefit of each and every other of the Lots and the Restrictive Covenants shall be enforceable against the registered proprietor of each of the Lots by the Developer and every subsequent registered proprietor of every other of the Lots.

## 3. TERM OF RESTRICTIVE COVENANTS

The Restrictive Covenants shall expire and cease to have effect from and including 31 December 2025.

**BLANK INSTRUMENT FORM****RESTRICTIVE COVENANT**

(Note 1)

ABN 66 012 878 629  
 WESTERN AUSTRALIA STAMP DUTY  
 DEE 18/09/07 14:56 002827910-002  
 FEE \$ \*\*\*\*\*0  
 SD \$ \*\*\*\*\*20.00 PEN \$\*\*\*\*\*.00

DATED THE 14th DAY OF September 2007

BY:

TRUST COMPANY LIMITED (ACN 004 027 749) of Level 4, 35 Clarence Street, Sydney, New South Wales ("Developer")

**RECITALS**

- A. The Developer is registered as the proprietor of the Land.
- B. The Land is subject to the Specified Encumbrances but otherwise free of all encumbrances.
- C. Where applicable, the parties who hold the Specified Encumbrances have consented to the terms of this Deed.
- D. The Developer has subdivided the Land and has lodged a plan of subdivision with the Commission, which has been approved and is now known as **Deposited Plan 55664** ("the Plan").
- E. In accordance with section 136D of the Act the Developer requires the Lots to be encumbered by the Restrictive Covenants so that the Restrictive Covenants will be noted on the Plan and when separate certificates of title issue for the Lots the burden of the Restrictive Covenants will be noted on each such certificate of title.

**OPERATIVE PART****1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this Deed the following words and expressions shall have the following meanings:

"Act" means the Transfer of Land Act 1893 as amended;

"Beach Precinct Lots" means lot 1869 to lot 1896 (inclusive) on the Plan;

"Commission" means the Western Australian Planning Commission;

"Land" means Lot 9034 on Deposited Plan 55253 <sup>being part of the land contained in Certificate of Title Volume 2659 Folio 373;</sup> ~~now whole 501260 Fol 597~~

"Lots" means the Beach Precinct Lots and the Ocean Frontage Lots, being each of the lots on the Plan excepting only Lot 9035;

"Ocean Frontage Lots" means lot 1932 to lot 1940 (inclusive) on the Plan;

"Restrictive Covenants" means the restrictive covenants set out in Schedule A, Schedule B and Schedule C of this Deed;

"Schedule A Restrictive Covenants" means the restrictive covenants set out in Schedule A of this Deed;