

## Annexure B – Restrictive Covenants

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The Buyer acknowledges and agrees that the certificate of title for the lot is issued with restrictive covenants endorsed on it substantially in the form of the covenants set out in the attached S 136D Restrictive Covenant Deed The Buyer covenants to comply with the restrictive covenants.

Buyer: \_\_\_\_\_

Buyer: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

WESTERN AUSTRALIA  
TRANSFER OF LAND ACT 1893 AS AMENDED**BLANK INSTRUMENT FORM****S 136D Restrictive Covenant**

(Note 1)

BY

**Carine Nominees Pty Ltd ACN 008 775 193** of Post Office Box 381, Cottesloe, Western Australia

AND

**Burtonia Pty Ltd ACN 009 057 738** of 49 Hampden Road, Nedlands, Western Australia(collectively, the **Developer**).**RECITALS**

A. The Developer is the registered proprietor of the Lots.

B. In accordance with section 136D of the Act, the Developer requires the Lots to be encumbered by the Restrictive Covenants.

**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* (WA), as amended;**Benefited Lots** means the Lots;**Burdened Lots** means the Lots;**Commission** means the Western Australian Planning Commission;**Deed** means this deed;**Design Guidelines** means the design guidelines attached as Annexure 1 to this Deed;**Dwelling** means a residential dwelling on a Lot;**Landgate** means Western Australian Land Information Authority;**Lots** means each lot on the Plan;**Owner** means the registered proprietor of a Lot from time to time;**Plan** means Deposited Plan 409304;**Restrictive Covenants** means the restrictive covenants, the subject of this Deed, being more specifically the Restrictive covenants referred in the Schedule**Schedule** means the schedule to this Deed; and**Sloped Lots** means the Lots.**1.2 Interpretation**

In this Deed unless the context otherwise requires:

- (b) words importing any gender include the other genders
- (c) references to persons includes corporations and bodies politic;
- (d) a reference to a statute includes a regulation, by-law, requisition, order or other delegated or subordinate legislation made under that statute and any amendment to or re-enactment of that statute or any delegated or subordinate legislation thereunder;
- (e) references to a party or to any other person includes the legal personal representatives, successors and permitted assigns of that party or person;
- (f) a reference to an association, body, government department or authority (statutory or not) which ceases to exist or which has been reconstituted, amalgamated, reconstructed, merged, renamed or replaced or where its powers or functions are transferred to any other person or organisation in its place, will be taken to refer to that association, body, government department or authority established or constituted in its place or by which its functions and powers have become exercisable;
- (g) if a word or phrase is defined cognate words and phrases have corresponding definitions; and
- (h) an obligation incurred by an Owner who is two or more parties will bind them jointly and severally and an obligation incurred in favour of two or more parties will be enforceable by them jointly and severally.

## **2. Benefit and burden of the Restrictive Covenants**

The Restrictive Covenants are created pursuant to section 136D of the Act and are to benefit each of the Benefited Lots and to burden each of the Burdened Lots.

## **3. Successors in Title**

The Restrictive Covenants will bind the successors in title and the registered proprietors from time to time of the Burdened Lots and the Restrictive Covenants will benefit the successors in title and the registered proprietors from time to time of the Benefited Lots.

## **4. Term of Restrictive Covenants**

The Restrictive Covenants will expire and cease to have effect from and including the date of expiration of 10 years from the date of issue by Landgate of titles for the Lots.

## **5. Encumbrances affecting the Lots**

The Lots are encumbered by Mortgage E782009 and Easement Burden created under section 167 P & D Act for water purposes to Water Corporation.

## **6. Authority**

The Developer authorises Gadens of Level 7, 150 St Georges Terrace, Perth, Western Australia to comply with any requisitions issued by Landgate and with the general authority and power to make any minor alterations which may be necessary to effect registration of this Deed.

## **7. Variation**

The registered proprietor of a Lot, from time to time, will not make an application to any Court, the Commission, the Commissioner of Titles or Landgate for the partial or whole modification, removal or extinguishment of the Restrictive Covenants except with the prior written consent of the registered proprietors of the other Lots, from time to time.

## SCHEDULE

### RESTRICTIVE COVENANTS

The Developer hereby covenants and agrees, with the intent to burden the Burdened Lots for the benefit of the Benefited Lots that an Owner will not:

1. build or erect or permit to be built or erected or permit to remain on the Lot any structure or improvement which does not comply with the Design Guidelines;
2. commence or permit to be commenced or constructed on the Lot any structure or improvement without first delivering a copy of all plans and specifications in respect of the structure or improvement to the Developer and receiving the Developer's written approval (which approval will not constitute compliance with the Restrictive Covenants or the approval of relevant statutory authorities);
3. alter or permit to be altered at any location the ground level of the Lot as constructed by the Developer by more than 500mm without receiving the Developer's written approval (which approval will not constitute the approval of relevant statutory authorities);
4. alter or remove or permit to be altered or removed any retaining wall or fencing on a Lot or on a boundary of a Lot constructed or built by the Developer or allow or permit such retaining wall or fencing to fall into a state of disrepair or repair or renew such retaining wall or fencing except in the same style and colour as the existing retaining walls and fences;
5. park or permit to be parked on a Lot or on the road or on any other land near to or next to a Lot, any commercial vehicle (which has an aggregate weight greater than 3.5 tonnes or a height greater than 2.0 metres) or caravans, trailers, boats or any other mobile machinery (**Vehicles**) unless the Vehicles are housed or contained wholly within a garage on the Lot or are parked on the Lot and screened from public view;
6. carry out or permit to be carried out repairs to or restoration of any Vehicle parked on any Lot or on the road or on any other land near to or next to any Lot unless such repairs or restoration is carried out wholly within a garage on that Lot or on the Lot and screened from public view;
7. after a Dwelling is complete on the Lot, allow or permit any vehicle to enter the Lot except on or across a driveway and a cross-over between the road and the garage or other parking areas on the Lot;
8. erect or display or permit to be erected or displayed on a Lot or any part thereof, a sign, boarding or advertising of any description whatsoever (including a 'For Sale' sign) other than a sign erected by a builder of a Dwelling in accordance with the Builders Registration Act until a Dwelling has been constructed and completed on the Lot in accordance with the plans and specifications approved by the Developer or the Developer's nominated representative under Restrictive Covenant 2, or 2 years have lapsed from the date of settlement of the purchase of the Lot;
9. use or open or permit to be used or opened, any Dwelling built or erected on the Lot for display purpose;
10. permit or allow any rubbish bins to be stored where visible from the street, road or public space adjacent to the Lot except when placed on the verge adjacent to the Lot on the day nominated for rubbish collection;
11. fail to maintain or replace, when damaged or dead, any verge trees planted by the Developer on the verge adjacent to the Lot;
12. after a Dwelling is complete on the Lot, fail to install and maintain landscaping on all areas of the Lot visible from the street, road or public space adjacent to the Lot; or
13. breach or permit to be breached the Design Guidelines as issued by the Developer, from time to time, as they relate to the Lot.

## ANNEXURE 1

### PEEL'S RETREAT ESTATE, DAWESVILLE DESIGN GUIDELINES

#### **Introduction**

In order to ensure a high standard of home design at Peel's Retreat Estate, Dawesville, these Design Guidelines set out 'minimum' standards for residential development within the estate. They are to be read in conjunction with the Restrictive Covenants that apply to these lots, the Residential Design Codes of WA, the City of Mandurah Town Planning Scheme, and other relevant polices.

#### **Covenant Approval**

In order to obtain Developer's Approval, **one set** of plans comprising 1:100 scale Floor Plans and Elevations, and 1:200 scale Site Plan should be submitted to the covenant consultant: Paul Rumble Architect – 9B Hammond Street, West Perth WA 6005 (prumble@westnet.com.au) prior to submission to the local authority (City of Mandurah) under the normal building approval procedure.

The consultant will check the plans for compliance with Restrictive Covenants, and if considered to comply will return an approved set of plans to the applicant. The second set of approved plans will be sent to the Developer.

NO development shall commence on any lot without the plans and specifications having been approved in writing as set out above.

#### **COVENANT SUMMARY**

<b>CONCEPT</b>	<p>All developments must be solely for residential use, present an attractive appearance to the street, providing an articulated façade, with good passive surveillance, an open and welcoming aspect, and a range of complimentary design features and finishes.</p> <p>'Kit' / transportable homes will not be permitted.</p>
<b>STREET ELEVATION</b>	<p>Each dwelling must have architectural interest and appeal to the front façade facing the street, and must include either a front verandah, substantial porch, portico, balcony, gable, gablet, bay window or projecting corbel;</p> <p>Wall materials may be concrete blocks, clay brick, limestone (or similar stone) or painted cement render used singly or in composition with one another. Contrasting wall materials may be painted fibre cement sheeting or coloured corrugated steel. Where more than one wall material is used at least 60% of the front façade of the Dwelling must be masonry;</p> <p>Architectural interest is also encouraged by:</p> <ol style="list-style-type: none"><li>1. Articulation through use of massing, features and materials to 'break up' blank facades;</li><li>2. Extensive and expressive use of windows and external window treatments such as awnings;</li><li>3. Use of contrasting colour.</li></ol> <p>On corner lots, the façade fronting a secondary street must be similar to that fronting the main street.</p> <p><b>Sloped Lots</b> Use of brick, rammed earth and / or masonry build-up or pole construction is encouraged on Sloped Lots. However, in order to ensure these present an attractive appearance to the street, the front facade and first 6m of the side of buildings on poles or piers must have the underside of the building screened or enclosed with complimentary materials. Verandahs may be excluded from this requirement where presenting an attractive and neat appearance to the street.</p>

<b>GARAGE</b>	<p>Each dwelling must have a double garage attached to the main dwelling. Garage construction must be identical to the dwelling, including roof pitch, materials, design, external appearance including colour &amp; quality.</p> <p>Garage doors must not take up more than 50% of the building frontage.</p> <p>Variations will only be considered where lot frontage and side setback requirements would otherwise preclude a non-tandem double-parking space, and this is located in line or behind the building line.</p>
<b>ROOFS</b>	<p>Roofing material must be of concrete or clay tiles or Colorbond steel. Any steel sheeting must be non-reflective</p> <p>Roofs must overhang walls to form an eave.</p> <p>Roof pitch must be at least 25 degrees but no more than 45 degrees, except where a portion of a roof covers a verandah area.</p>
<b>OUT BUILDINGS / SHEDS</b>	<p>Outbuildings with a roof area exceeding 40m<sup>2</sup> must match or complement the dwelling in respect of materials, design, external appearance including colour &amp; quality.</p> <p>If a flat roof is used on the outbuilding, it must be screened from view.</p>
<b>FENCING</b>	<p>Side &amp; rear boundary fencing must be completed before occupation and;</p> <ol style="list-style-type: none"> <li>1. Must be not less than 1800mm high,</li> <li>2. Must complement materials used in the dwelling,</li> <li>3. Comprise infill panels of either painted lapped timber, brushwood, brick or block in manufactured finish, painted masonry render or Colorbond corrugated steel.</li> <li>4. Not extend forward of the building setback line (unless fence is erected by the developer prior to commencement of building),</li> </ol> <p>Retaining walls or fences built by the developer may not be removed or altered.</p> <p>Front fencing is discouraged and no fencing above 1.2m in height is permitted within the front setback area.</p> <p>All front fencing must also be:</p> <ol style="list-style-type: none"> <li>1. 50% visually permeable; and</li> <li>2. constructed as one of the following (as corrugated fibre cement shall not be permitted): <ol style="list-style-type: none"> <li>a. timber picket fences;</li> <li>b. brick piers with timber infill;</li> <li>c. brick piers with part brick and part metal infill;</li> <li>d. brick piers with part brick and part timber infill; or</li> <li>e. brick piers with metal infill.</li> </ol> </li> </ol>
<b>DRIVEWAY</b>	<p>Driveways and crossovers must be completed prior to occupation and must be of brick or block paving.</p> <p>Crossover must not exceed 6m in width and must not be less than 0.5m from side boundary.</p>
<b>LETTERBOX</b>	<p>Must be adjacent to driveway, clearly numbered and match or complement dwelling.</p>
<b>SOLAR HOT WATER</b>	<p>Solar Hot Water heaters with an integral roof mounted tank are not permitted. Solar collectors may be visible but must fit the roof profile and not be elevated at any angle to the roof profile.</p> <p>They must match or complement the dwelling but the tank must be screened from view.</p> <p>Hot Water storage tanks and other hot water heaters must be hidden from public view from the front of the lot.</p>
<b>AIR CONDITIONER / EVAPORATIVE COOLER</b>	<p>Roof mounted air conditioners and evaporative coolers must be positioned on a roof plane which faces away from a street frontage, and in a colour similar to the roof.</p> <p>Alternatively, it should be contained wholly within the volume of the building, including the roof space.</p>

	Heat pump air conditioning systems must be hidden from public view from the front of the lot.
<b>CLOTHES LINES &amp; RAINWATER TANKS</b>	Permitted when complying with the manufacturer's installation recommendations, but in any event must be screened from public view.
<b>ROOF MOUNTED EQUIPMENT</b>	Roof mounted equipment such a free to air TV antenna, satellite dish or radio antenna must be screened from public view.
<b>SITE LEVEL</b>	Retention of natural levels where these have been retained is encouraged, and levelling of Sloped Lots will generally not be permitted.