

FORM B2

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

RESTRICTIVE COVENANT
under Section 136D of the TLA

(Note 1)

BY

_____ (Owner).

RECITALS

- A The Owner is registered as the proprietor of the Land.
- B The Land is subject to the Specified Encumbrances but otherwise free of all encumbrances.
- C The Owner intends to subdivide the Land in the manner shown on the Plan and has obtained the approval of the WAPC for the subdivision.
- D In accordance with section 136D of the Act, the Owner 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:

Act means the *Transfer of Land Act 1893* as amended.

Building Code means the building code produced by the Australian Building Codes Board and adopted in Western Australia pursuant to the *Building Regulations 1989 (WA)* from time to time.

City means the City of Stirling.

Corbel means a projection jutting upward and outward from a wall to support a structure above it.

Design Guidelines means the Thomas Mews Lakes Estate Design Guidelines which are in the form annexed to this deed as Annexure A.

Drawing and Specifications means all plans and specifications for the proposed development of the Lot which must include a site plan, floor plans, elevations illustrating the proposed built form and details of the external materials, finishes and location of any plant.

Gable means a triangular portion of the external wall between the enclosing lines of a pitched roof from eaves level to the apex.

Gablet means a small Gable, such as in a Gambrel Roof.

Gambrel Roof means a roof having a small Gable near the apex of a hipped end.

Land means Lot 500 on Deposited Plan 32237 (being the whole of the land in certificate of title volume 740 folio 77) and 501 on Deposited Plan 32237 (being the whole of the land in certificate of title volume 740 folio 76).

Large Vehicles means:

- (a) any commercial vehicles with an aggregate weight greater than 3.5 tonnes or a height greater than 2.0 metres; or
- (b) caravans, trailers, boats or any other mobile machinery.

Lots means all of the lots on the Plan and where a lot is referred to by number means the lot identified on the Plan by that number.

Plan mean deposited plan _____.

Portico means a narrow verandah or colonnade projecting from the front entrance of the Residence.

Project Managers mean Rowe Group (ABN 41 093 308 715), of 3/369 Newcastle Street, Northbridge, WA 6003 or such other person nominated in writing (from time to time) by the Owner.

R Codes means the Residential Design Codes of Western Australia.

Residence means a permanent non-transportable private residence.

Restrictive Covenants means each of the restrictive covenants contained in the Schedule.

Specified Encumbrances means _____.

WAPC means the Western Australian Planning Commission.

1.2 Headings

Headings shall be ignored in construing this document.

1.3 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) an 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) the schedules and annexures form part of this deed.

2 RESTRICTIVE COVENANTS

The burden of the Restrictive Covenants shall run with each of the Lots for the benefit of every other Lot. The Restrictive Covenants shall be enforceable against the registered proprietor of each of the Lots by the Owner and every subsequent registered proprietor of each of the Lots. The Restrictive Covenants only apply to the extent that they are not inconsistent with any applicable planning scheme or the requirements of any authority.

3 TERM OF RESTRICTIVE COVENANTS

The Restrictive Covenants are not limited in term and will operate and be enforceable until this Restrictive Covenant is removed from the title to the Lot.

4 AUTHORITY

The Owner authorises Lavan Legal of 1 William Street, Perth, Western Australia to comply with any requisitions issued by Landgate and within this general authority and power to make any minor alterations which may be necessary to effect registration of this deed.

5 CONSENTS

The Owner must obtain all consents necessary for the registration of this document with Landgate.

SCHEDULE

RESTRICTIVE COVENANTS

- 1 The registered proprietor for the time being of a Lot **must not do** any of the following:
 - 1.1 develop the Lot (including construct a Residence) otherwise than in accordance with:
 - 1.1.1 the Design Guidelines, unless approved otherwise in writing by the City and the Project Managers; and
 - 1.1.2 any approval issued by the City;
 - 1.2 construct, erect or install, or permit to be constructed, erected or installed on the Lot a residence:
 - 1.2.1 without Drawings and Specifications being first submitted to the Project Managers for their formal written approval; and
 - 1.2.2 other than in compliance with any condition (consistent with the Restrictive Covenants and the Design Guidelines) imposed by the Owner;
 - 1.3 without limiting any of the requirements in the Design Guidelines, construct or permit to be constructed on the Lot any residence:
 - 1.3.1 other than a Residence;
 - 1.3.2 with a total floor area of less than 180 square metres including external walls but excluding carports, garages, verandahs and other enclosed areas;
 - 1.3.3 with walls that are not either predominantly:
 - (a) rendered and/or painted concrete, clay bricks, or other similar material; or
 - (b) Limestone or any other feature material;
 - 1.3.4 with roofing materials which are not concrete or clay tiles or colourbond metal roofing;
 - 1.3.5 with a roof pitch of less than 25 degrees or more than 45 degrees excluding any part of the roof which covers verandah areas;
 - 1.3.6 with a roof that is blue or red in colour or a combination thereof;
 - 1.3.7 which does not have a front façade facing a street containing at least one, or a combination of, the following:
 - (a) a Gable;
 - (b) a Gablet;
 - (c) an arch to the brickwork of the front façade with projecting masonry

Corbels;

- (d) a Portico with a minimum width of 1500 millimetres that projects forward from the main roof of the front of the Residence;
- (e) a verandah with a minimum depth of 1500 millimetres and width which comprises a minimum of 50 per cent of the front elevation of the Residence;
- (f) a bay window with a minimum width of 1500 millimetres; or
- (g) a balcony;

1.3.8 which does not contain a carport or garage making provision for parking of at least two regular sedan-sized motor vehicles;

1.3.9 which has a flat roof (excluding verandah areas) unless the roof is shielded from front view by parapet walling;

1.3.10 with a carport or garage which is not located under the main roof of the Residence unless the carport or garage:

- (a) is made of the same materials as the Residence; or
- (b) matches or complements the Residence in respect of the pitch of the roof, materials used and the design and external appearance including colour and the quality of construction;

1.3.11 unless a driveway and crossover between the road and parking area on the Lot is constructed and completed at the same time as, or prior to, occupation of the Residence;

1.3.12 with any driveway that is:

- (a) wider than 6 metres at the street boundary of the Lot;
- (b) less than 0.5 metres from any side boundary of the Lot; or
- (c) not constructed of brick paving, block paving or exposed aggregate;

1.3.13 unless all side and rear boundary fencing is constructed and completed at the same time as, or prior to, occupation of the residence;

1.4 construct, erect or install, or permit to be constructed, erected or installed on the Lot:

1.4.1 any structure with walls and a roof exceeding 6 square metres in floor area which does not form part of the Residence unless:

- (a) the structure is made of the same materials as the Residence;
- (b) the roof is shielded from front view by parapet walling; and
- (c) the structure otherwise matches or complements the Residence in respect of materials used and the design and external appearance,

including colour and the quality of construction;

- 1.4.2 any structure with walls and a roof with less than 6 square metres in floor area which does not form part of the Residence which has walls and/or a roof made of, or coated with, zincalume or other reflective material;
- 1.4.3 any fence unless it is:
 - 1.4.3.1 capped and painted on both sides and is constructed of materials known as “Colorbond”, “Super Six” fibre cement or “Hardifence”; or
 - 1.4.3.2 constructed of timber, brushwood, masonry or brick;
- 1.4.4 any fence which:
 - (a) is less than 1650 millimetres in height; or
 - (b) does not match or complement the Residence; or
 - (c) extends forward of the building frontage set back line for the Lot. For the avoidance of doubt, in the case of a corner Lot, the registered proprietor must not construct a fence that extends forward of the building frontage set back line for both the primary and secondary street for the Lot (ie an “L” shape fence is required on a corner block);
- 1.4.5 a letter box which is not:
 - (a) located adjacent to the driveway; or
 - (b) clearly numbered; or
 - (c) does not match or complement the Residence;
- 1.4.6 an air conditioning unit or evaporative cooler, unless it is installed:
 - (a) wholly within the Residence; or
 - (b) generally below the ridge line of the roof of the Residence and is of similar colour to the roof; or
 - (c) contained within the roof space between the ceilings of the Residence and the underside of the roof of the Residence;
- 1.4.7 a solar hot water heater, unless it:
 - (a) is screened from public view from the front of the Residence;
 - (b) fits the roof profile;
 - (c) is not elevated at any angle to the roof profile; and
 - (d) otherwise matches or complements the Residence;
- 1.4.8 any roof mounted service or equipment (including, without limitation, television

antennas, satellite dishes, radio antennas and/or aerials) unless it is:

- (a) screened from public view from the front of the Residence; or
- (b) architecturally integrated into the Residence; or
- (c) the same colour as the roof of the Residence;

1.4.9 a clothes line or rain water tank unless it is:

- (a) installed in accordance with the manufacturer's instructions; and
- (b) screened from public view from the front of the Residence;

1.5 park or allow to be parked on the Lot, surrounding allotments, surrounding public areas or nature strips, any Large Vehicles unless they are housed or contained wholly within a carport or garage or other area on the Lot screened from public view;

1.6 carry out any repairs to, or restoration of, any vehicles parked on the Lot, surrounding allotments, surrounding public areas or nature strips unless such repairs or restoration are carried out on the Lot wholly within a carport or garage or other area on the Lot screened from public view;

1.7 where retaining walls or fences have been erected on any of the boundaries of the Lot by the Owner:

1.7.1 alter or remove any of the retaining walls or fences; or

1.7.2 allow or permit the retaining walls or fences to fall into a state of disrepair; or

1.7.3 repair or renew such retaining walls or fences except in the same style and colour as the existing retaining walls and fences; or

1.7.4 alter the level of the surface of the Lot by elevating the level by more than half of one metre;

1.8 erect or display or cause to be erected or displayed on the Lot any sign, hoarding or advertising of any description whatsoever other than:

1.8.1 a sign erected by a builder of the Residence in accordance with the *Builders Registration Act (1939) (WA)*; or

1.8.2 a sign advertising a home business which is operated from the Lot, which is less than 0.5 square metres; or

1.8.3 a "For Sale" sign but only after the earlier to occur of the following:

(a) completion of a Residence on the Lot; or

(b) after the Developer of the Thomas Mews Lakes Estate has settled on the sale of all Lots.

Dated this

day of

2014

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.

OFFICE USE ONLY

LODGED BY ADDRESS Lavan Legal
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REFERENCE No. 4828-2299-8813_1146982, v.1

ISSUING BOX No. 99A

PREPARED BY ADDRESS Lavan Legal
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1 William Street
PERTH WA 6000

PHONE NO. 9288 6000 FAX NO. 9288 6001

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