

RESTRICTIVE COVENANT

1. The Buyer acknowledges and agrees that:
 - 1.1 restrictive covenant K29253 (the “RC K29253”), a copy of which is attached hereto, has been registered on the title to the land to be subdivided in accordance with Deposited Plan 403836;
 - 1.2 the RC K29253 will apply to each of the lots shown on Deposited Plan 403836 as if the RC K29253 defined:
 - 1.2.1. “Lot” as including the Property being purchased;
 - 1.2.2. “Subdivision Plan” to referred to Deposited Plan 403836; and
 - 1.2.3. “Land” as being the land subdivided by Deposited Plan 403836.
 - 1.3 a new deed of restrictive covenant (the “Deed”), a copy of which appears in Annexure B-2, will be registered on the title to the land to be subdivided in accordance with Deposited Plan 403836 on the same terms and conditions as the Deed, except for the definitions of “Lot”, “Subdivision Plan” and “Land” and that these restrictive covenants will not expire until 31 December 2020.
2. The Buyer shall observe and comply with all of the restrictive covenants that are contained within the Deed and Annexure B-2.
3. The covenants in clause 2 of RC K29253 shall override the covenants in clause 2 of the Deed to the extent that there is any inconsistency between them until such time that RC K29253 expires.

FORM B 2

FORM APPROVED
NO. B2891

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

RESTRICTIVE COVENANT

(Note 1)

ABN 66 012 878 629
WESTERN AUSTRALIA STAMP DUTY
DEE 10/10/06 15:48 002730252-001
FEE \$ *****
\$000*****20.00 PEN \$*****.00

This Deed is made the 6TH day of OCTOBER

Parties

Aberdeen Nominees Pty Ltd A.C.N. 008 849 527, **Talia Nominees Pty Ltd** A.C.N. 008 849 518, **Coastal Estates Pty Ltd** A.C.N. 008 679 276 and **Caspar Pty Ltd** A.C.N. 008 688 293 all of 54 Mandurah Terrace Mandurah as tenants in common in equal shares ("the Owner" which expression where the context so admits or requires shall extend to and include the legal assigns and transferees of the Owner).

Recitals

- A. The Owner is registered as the proprietor of an estate in fee simple of the Land located at Mandurah, Western Australia, subject to the Encumbrances specified in clause 7.
- B. The Land is proposed to be subdivided in accordance with the Subdivision Plan.
- C. Pursuant to the Subdivision Plan the Lots will be created.
- D. The Owner wishes to create on the Subdivision Plan in respect of each of the Lots a restrictive covenant as set out in this deed pursuant to the provisions of Section 136D of the Act.
- E. The terms of this Deed shall bind the Owner and its respective successors in title and assigns as the registered proprietors for the time being of the Lots and any part of the Lots.

NOW THIS DEED WITNESSES:

1. Definitions

1.1 In this Deed the following terms have the following meanings:

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

"Lots" unless expressly provided to the contrary means Lots 562 to 563 inclusive, 572 to 599 inclusive and 606 to 607 inclusive as shown on the Deposited Plan and where the content so admits includes any other lots created in substitution over all or part of the land contained within Lots 562 to 563 inclusive, 572 to 599 inclusive and 606 to 607 inclusive as the case may be;

"the Land" means the land described as Lot 9010 on Deposited Plan 49255 being the whole of land contained in Certificate of Title Volume 2633 Folio 734;

"Owners of Lots" means the registered proprietors from time to time of all or any lot or lots from time to time which may be created by the subdivision of the Lots or any further subdivision of any of those lots;

"Restrictive Covenants" means the restrictive covenants created in Clause 2 of this Deed; and

"Subdivision Plan" means Deposited Plan 51929.

1.2 In this Deed unless the context otherwise requires:

1.2.1 words importing the singular include the plural and vice versa;

1.2.2 words importing any gender include the other genders;

1.2.3 references to a person include corporations and bodies politic;

1.2.4 references to a person includes the legal personal representatives, successors and assigns of that person;

- 1.2.5 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;
- 1.2.6 an obligation on two or more parties shall bind them jointly and severally;
- 1.2.7 headings in this Deed are for convenience and identification of clauses only and do not otherwise affect its interpretation; and
- 1.2.8 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, shall 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.

2. Estate Covenants

2.1 As to each of the Lots the Owner in its capacity as registered proprietor of each of the Lots for itself and all of the Owners of the Lots and each of them pursuant to the provisions of Section 136D of the Act for the purpose of creation of a restrictive covenant on the Subdivision Plan HEREBY COVENANTS and AGREES that none of the Owners of the Lots shall at any time:

- 2.1.1 Construct, erect or install or permit to be constructed, erected or installed on the Lots or any of them:
- (a) a residence other than a permanent non-transportable private residence ("a residence");
 - (b) a residence with a total area of less than 160 square metres inclusive of external walls but exclusive of carports, garages, verandahs and other unenclosed areas;
 - (c) a residence, unless a driveway and the cross-over between the road and the parking area on the Lot are constructed and completed prior to occupation of the residence;
 - (d) a residence, unless fences on all rear and side boundaries to the building frontage set back line are constructed or installed prior to occupation of the residence;
 - (e) a residence or other improvement (including but not limited to an alteration or addition to a residence) which does not contain a carport or garage making provision for parking of not less than two motor vehicles, side by side;
 - (f) an improvement to a residence (including but not limited to an alteration or addition to a residence) which, when completed, does not still contain a carport or garage on the Lot making provision for parking of not less than two motor vehicles side by side;
 - (g) any structure with walls and a flat roof, which is visible from public areas and which has a roof area exceeding 9 square metres which does not match the residence in respect of materials used, the design, external appearance, including colour and the quality of construction;
 - (h) a residence, unless all ground areas which are visible from the street or to a neighbouring owner ("visible areas") are properly landscaped within 3 months after completion of the residence. "Properly landscaped" means that all visible areas must be cleared and grassed, planted or otherwise covered with a beautifying surface;
 - (i) a residence with external walls visible from public areas using materials other than either concrete, rammed earth, clay bricks or stone (in face work or render);
 - (j) a residence with external walls not otherwise visible from public areas using materials which are not predominately either concrete, rammed earth, clay bricks or stone (in face work or render);
 - (k) a residence or any other structure with walls and a roof using roof materials which are not concrete or clay tiles, slate, colourbond metal or painted metal;
 - (l) a residence or any other structure using zincalume as wall or roof material;
 - (m) a carport or garage which is not identical to the residence in respect of materials used, the design, external appearance, including colour and the quality of construction;
 - (n) any fence forward of the building frontage setback line unless the written consent of the Owner has first been obtained;

- (o) a fence other than a fence constructed of Colourbond with a steel frame and coloured 'Classic Cream' or if that colour is deleted or unavailable then such colour which is substantially the same as Classic Cream or a fence constructed of masonry which is designed and constructed in accordance with specifications approved by a qualified engineer;
 - (p) a fence on top of a retaining wall unless the fence posts are drilled into the retaining wall to a minimum depth of at least 600mm and have been constructed in accordance with specifications approved by a qualified engineer;
 - (q) a letterbox which is not clearly numbered or is made of materials which do not match or complement the residence;
 - (r) a solar hot water system, unless it is hidden from public view from the front of the Lot, fits the roof profile and is not elevated at any angle to the roof profile and otherwise matches or complements the residence; or
 - (s) an air conditioning unit or evaporative cooler, unless it is hidden from public view from the front of the Lot and is of similar colour to the roof or unless it is contained wholly within the volume of the building including the roof space between the ceiling of the residence and the underside of the roof of the residence.
- 2.1.2 object to the construction of nor refuse or fail to contribute one half of the lowest quoted cost of constructing a dividing fence, which is proposed to be erected by an adjoining owner:
- (a) on the boundary;
 - (b) within 40 centimetres of the edge of any retaining wall constructed on the common boundary;
 - (c) within 10 centimetres of the common boundary if no retaining wall is constructed on the common boundary and for any practical reason the fence cannot be constructed on the boundary;
 - (d) constructed of Colourbond with a steel frame and coloured 'Classic Cream' or if that colour is deleted or unavailable then such colour which is the substantially same as Classic Cream or a fence constructed of masonry which is designed and constructed in accordance with specifications approved by a qualified engineer;
 - (e) constructed on top of a retaining wall with the fence posts drilled into the retaining wall to a minimum depth of 600mm and constructed in accordance with the specifications approved by a qualified engineer;
 - (f) within 30 days of an adjoining owner serving a notice pursuant to the Dividing Fences Act 1961 attaching at least 2 arms length commercial quotations for the construction of the dividing fence.
- 2.1.3 where retaining walls or fences have been erected on the boundaries of the Lots:
- (a) alter or remove any of the retaining walls or fences;
 - (b) allow or permit the retaining walls or fences to fall into a state of disrepair; or
 - (c) repair or renew such retaining walls or fences except in the same style and colour as the existing retaining walls and fences,
- unless the written consent of the Owner has first been obtained.
- 2.1.4 allow the verge abutting the Lots to become overgrown or invaded by weeds or to fall into a state of disrepair;
- 2.1.5 commence construction of a residence on the Lot (or any part thereof) unless it has first obtained the consent of the Owner to the proposed plans and specifications of the residence to be constructed. The Owner acknowledges that it shall automatically approve the plans and specifications of the proposed residence if they comply with these Restrictive Covenants; or
- 2.1.6 erect or display or cause to be erected or displayed on the Lot (or any part thereof), a "For Sale" sign unless a residence has been constructed and completed on the Lot in accordance with the plans and specifications approved by the Owner under clause 2.1.5.

3. Burden & Benefit of Restrictive Covenants

3.1 The land to be burdened by the Restrictive Covenants contained in clause 2.1 is each of the Lots.

3.2 The land to be benefited by the Restrictive Covenants contained in clause 2.1 is each of the Lots.

4. Term of Restrictive Covenants

4.1 The Restrictive Covenants are intended to run with each of the Lots until 31 December 2015 after which date they will expire and be of no further force and effect.

5. Modification of Restrictive Covenants

5.1 The Restrictive Covenants will not be modified, surrendered, released or abandoned either wholly or partially except with the prior written consent of the registered proprietors of all of the Lots, from time to time. The registered proprietor of any Lot, from time to time, will not make an application to any Court, the Registrar of Titles, the Department of Land Information or any other local authority for the partial or total modification, removal or extinguishment of the Restrictive Covenants prior to 31 DECEMBER 2015 except with the prior written consent of the registered proprietors for the time being of all of the other Lots.

6. Arbitration

6.1 In the event of any difference or dispute arising regarding the interpretation of the restrictive covenant created pursuant to clause 2 then the dispute shall be referred to a single arbitrator nominated by the President for the time being of the Royal Australian Institute of Architects (Western Australia Division) pursuant to the provisions of the Commercial Arbitration Act 1985 and whose decision shall take into account any guidelines which the Owner may issue from time to time in respect of the Subdivision Plan and which decision shall be final and binding on the Owners of the Lots.

7. Encumbrances

7.1 The Lots are encumbered by a Memorial registered pursuant to s 165 of the Planning & Development Act 2005 noting that the Lots are in close proximity to mosquito breeding areas and that the mosquito species is known to carry Ross River Virus and other diseases.

Executed as a Deed

Executed by)
ABERDEEN NOMINEES PTY LTD)
A.C.N. 008 849 527)

Signature of Director

JOHN DAVID PERRY

Print Full Name of Director

N. Perry

Signature of Director/Secretary

NANCY GRACE PERRY

Print Full Name of Director/Secretary

Executed by)
TALIA NOMINEES PTY LTD)
A.C.N. 008 849 518)

Signature of Director

JOHN DAVID PERRY

Print Full Name of Director

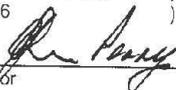
N. Perry

Signature of Director/Secretary

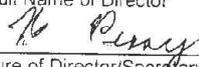
NANCY GRACE PERRY.

Print Full Name of Director/Secretary

Executed by)
COASTAL ESTATES PTY LTD)
A.C.N. 008 679 276)


Signature of Director

JOHN DAVID PERRY
Print Full Name of Director

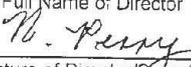

Signature of Director/Secretary

NANCY GRACE PERRY.
Print Full Name of Director/Secretary

Executed by)
CASPAR PTY LTD)
A.C.N. 008 688 293)


Signature of Director

JOHN DAVID PERRY
Print Full Name of Director


Signature of Director/Secretary

NANCY GRACE PERRY.
Print Full Name of Director/Secretary

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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

K 29253 RC

19 Dec 2008 10:15:07 Perth



REG \$ 82.00

LODGED BY Solomon Brothers

ADDRESS Level 40 Exchange Plaza
2 The Esplanade
PERTH WA 6000

PHONE No. 9282 5888

FAX No 9282 5866

REFERENCE No. Restrictive Covenant / 6265926

ISSUING BOX No. 46x

PREPARED BY

ADDRESS

PHONE No. FAX No.

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

① 2

TITLES, LEASES, DECLARATIONS ETC. LODGED HERewith

1.	_____	Received Items
2.	_____	Nos.
3.	_____	
4.	_____	
5.	_____	
6.	_____	Receiving Clerk <i>ds</i>

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



RESTRICTIVE COVENANT

1. Clause 2 of this Annexure is an extract from the Deed of Restrictive Covenant as noted on Deposited Plan 403836 as registered at the Department of Land and Administration and the definition of the following words or phrases are defined in the Deed of Restrictive Covenant: “Lots”, “Subdivision Plan”, “the Owner”, “Owners of Lots” and “the Land”.

Estate Covenants

2.1 As to each of the Lots the Owner in its capacity as registered proprietor of each of the Lots for itself and all of the Owners of the Lots and each of them pursuant to the provisions of Section 136D of the Act for the purpose of creation of a restrictive covenant on the Subdivision Plan HEREBY COVENANTS and AGREES that none of the Owners of the Lots shall at any time:

2.1.1 Construct, erect or install or permit to be constructed, erected or installed on the Lots or any part of the Lots:

- (a) a residence other than a permanent non-transportable private residence (“a residence”) or any other dwellings in addition to a residence (“other dwelling”) (to which the Restrictive Covenants in paragraphs (f), (h), (i), (j), (k), (q) and (r) shall apply, as if each other dwelling to be constructed on a Lot were a “residence” for the purpose of those paragraphs) unless:
 - (i) additional, group or multiple dwellings are permitted by the local planning scheme;
 - (ii) the number of dwellings (including a residence) do not exceed the maximum number of dwellings for which approval has been given by the relevant authority;
 - (iii) all of the Restrictive Covenants that are applicable to each other dwelling is complied with.
- (b) a residence, unless a driveway and the cross-over between the road and the parking area on the Lot are constructed and completed prior to occupation of the residence;
- (c) a residence, unless fences on all rear and side boundaries to the building frontage set back line are constructed or installed prior to occupation of the residence;
- (d) a residence or other improvement (including but not limited to an alteration or addition to a residence) which does not contain a carport or garage making provision for parking of not less than two motor vehicles, side by side;
- (e) an improvement to a residence (including but not limited to an alteration or addition to a residence) which, when completed, does not still contain a carport or garage on the Lot making provision for parking of not less than two motor vehicles side by side;
- (f) any structure with walls and a flat roof, which is visible from public areas and which has a roof area exceeding 9 square metres which does not match the residence in respect of materials used, the design, external appearance, including colour and the quality of construction;
- (g) a residence, unless all ground areas which are visible from the street or to a neighbouring owner (“visible areas”) are properly landscaped within 3 months after completion of the residence. “Properly landscaped” means that all visible areas must be cleared and grassed, planted or otherwise covered with a beautifying surface;
- (h) a residence unless the external walls of the residence (or in the case of a double storey residence, the first storey of the residence) are constructed with concrete, rammed earth, clay bricks or stone;
- (i) a residence unless all external walls:
 - (i) which are visible from public areas are finished (either in face work or render) in concrete, rammed earth, clay bricks or stone; and
 - (ii) which are not visible from public areas are predominately finished (either in face work or render) in concrete, rammed earth, clay bricks or stone;
- (j) a residence or any other structure with walls and a roof using roof materials which are not concrete or clay tiles, slate, colourbond metal or painted metal;
- (k) a residence or any other structure using zincalume as wall or roof material;
- (l) a carport or garage which is not identical to the residence in respect of materials used, the design, external appearance, including colour and the quality of construction;

- (m) any fence forward of the building frontage setback line unless the written consent of the Owner has first been obtained;
- (n) a fence other than a fence constructed of Colourbond with a steel frame and coloured 'Classic Cream' or if that colour is deleted or unavailable then such colour which is substantially the same as Classic Cream or a fence constructed of masonry which is designed and constructed in accordance with specifications approved by a qualified engineer.
- (o) a fence on top of a retaining wall unless the fence posts are drilled into the retaining wall at a minimum depth of at least 600mm and have been constructed in accordance with specifications approved by a qualified engineer;
- (p) a letterbox which is not clearly numbered or is made of materials which do not match or complement the residence;
- (q) a solar hot water system, unless it is hidden from public view from the front of the Lot, fits the roof profile and is not elevated at any angle to the roof profile and otherwise matches or complements the residence; or
- (r) an air conditioning unit or evaporative cooler, unless it is hidden from public view from the front of the Lot and is of similar colour to the roof or unless it is contained wholly within the volume of the building including the roof space between the ceiling of the residence and the underside of the roof of the residence.

2.1.2 object to the construction of nor refuse or fail to contribute one half of the lowest quoted cost of constructing a dividing fence, which is proposed to be erected by an adjoining owner:

- (a) on the boundary;
- (b) within 40 centimetres of the edge of any retaining wall constructed on the common boundary;
- (c) within 10 centimetres of the common boundary if no retaining wall is constructed on the common boundary and for any practical reason the fence cannot be constructed on the boundary;
- (d) constructed of Colourbond with a steel frame and coloured 'Classic Cream' or if that colour is deleted or unavailable then such colour which is the substantially same as Classic Cream or a fence constructed of masonry which is designed and constructed in accordance with specifications approved by a qualified engineer;
- (e) constructed on top of a retaining wall with the fence posts drilled into the retaining wall to a minimum depth of 600mm and constructed in accordance with the specifications approved by a qualified engineer;
- (f) within 30 days of an adjoining owner serving a notice pursuant to the Dividing Fences Act 1961 attaching at least 2 arms length commercial quotations for the construction of the dividing fence.

2.1.3 where retaining walls or fences have been erected on the boundaries of the Lots:

- (a) alter or remove any of the retaining walls or fences;
- (b) allow or permit the retaining walls or fences to fall into a state of disrepair; or
- (c) repair or renew such retaining walls or fences except in the same style and colour as the existing retaining walls and fences,

unless the written consent of the Owner has first been obtained.

2.1.4 allow the verge abutting the Lots to become overgrown or invaded by weeds or to fall into a state of disrepair;

2.1.5 commence construction of a residence on the Lot (or any part thereof) unless it has first obtained the consent of the Owner to the proposed plans and specifications of the residence to be constructed. The Owner acknowledges that it shall automatically approve the plans and specifications of the proposed residence if they comply with these Restrictive Covenants; or

2.1.6 erect or display or cause to be erected or displayed on the Lot (or any part thereof), a "For Sale" sign unless a residence has been constructed and completed on the Lot in accordance with the plans and specifications approved by the Owner under clause 2.1.5.

3. **Burden & Benefit of Restrictive Covenants**

3.1 The land to be burdened by the Restrictive Covenants contained in clause 2.1 is each of the Lots.

3.2 The land to be benefited by the Restrictive Covenants contained in clause 2.1 is each of the Lots.

4. **Term of Restrictive Covenants**

4.1 The Restrictive Covenants are intended to run with each of the Lots until 31 December 2020 after which date they will expire and be of no further force and effect.

5. **Modification of Restrictive Covenants**

5.1 The Restrictive Covenants will not be modified, surrendered, released or abandoned either wholly or partially except with the prior written consent of the registered proprietors of all of the Lots, from time to time. The registered proprietor of any Lot, from time to time, will not make an application to any Court, the Register of Titles, Landgate or any other local authority for the partial or total modification, removal or extinguishment of the Restrictive Covenants prior to 31 DECEMBER 2020 except with the prior written consent of the registered proprietors for the time being of all of the other Lots.

6. **Arbitration**

6.1 In the event of any difference or dispute arising regarding the interpretation of the restrictive covenant created pursuant to clause 2 then the dispute shall be referred to a single arbitrator nominated by the President for the time being of the Royal Australian Institute of Architects (Western Australia Division) pursuant to the provisions of the Commercial Arbitration Act 1985 and whose decision shall take into account any guidelines which the Owner may issue from time to time in respect of the Subdivision Plan and which decision shall be final and binding on the Owners of the Lots.

7. **Encumbrances**

The Lots are encumbered by Restrictive Covenant K29253.