

INSTRUCTIONS

136 D

OFFICE USE ONLY

H/kan -

L692222 RC

27 Jul 2011 14:15:40 Perth



REG \$ 160.00

RESTRICTIVE COVENANT

LODGED BY:

Susan Dickson Conveyancing

ADDRESS

PO Box 6288
EAST PERTH WA 6004

PHONE No. 9218 9144

FAX No. 9218 9008

REFERENCE No. 110169

ISSUING BOX No. 395V

PREPARED BY

Torrens Legal

ADDRESS

PO Box 100
Burswood WA 6100

PHONE No.: 9325 2222 FAX No. 9325 2233

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

2/2

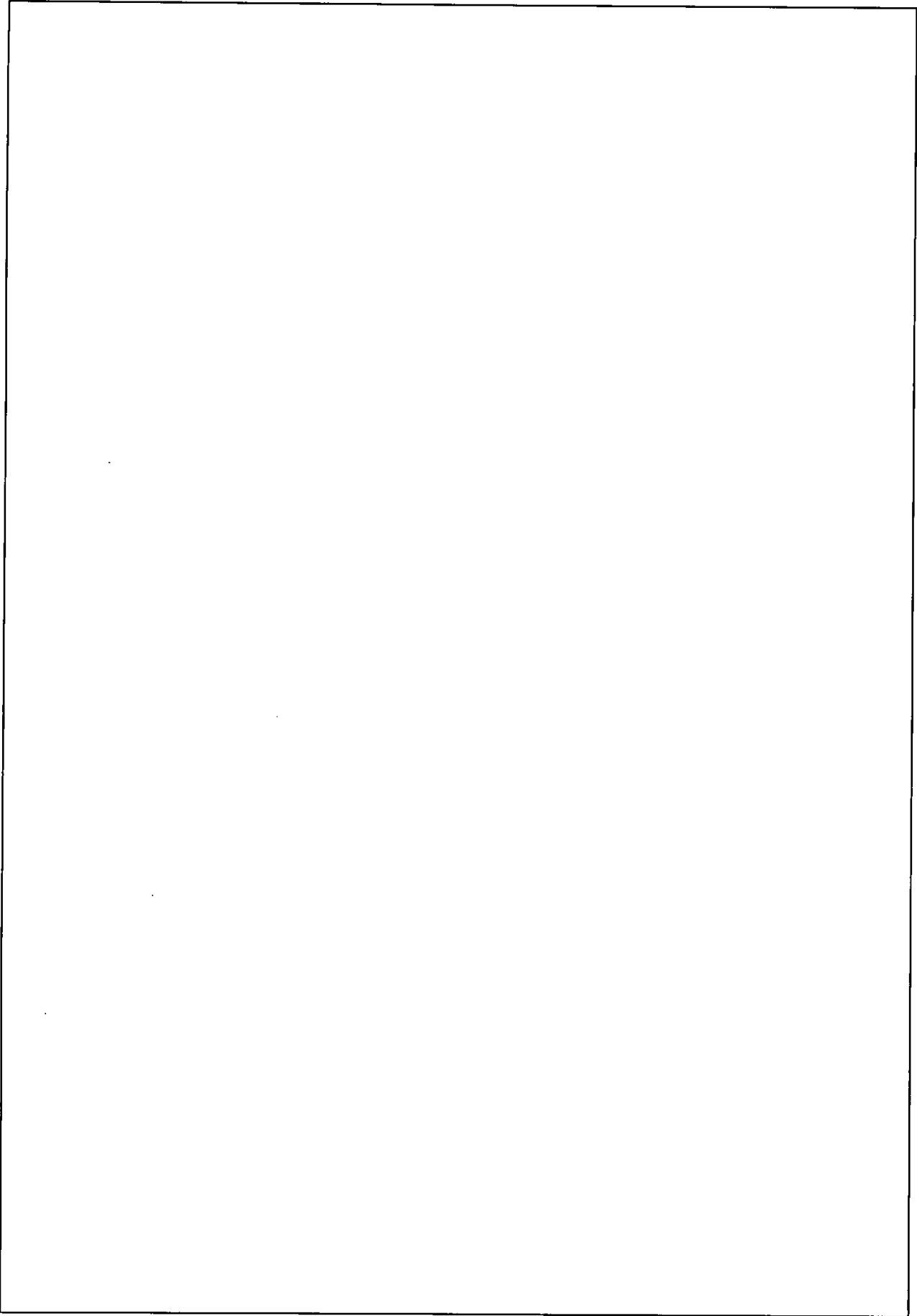
TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

| | |
|----------|-----------------|
| 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





MORTGAGEE'S CONSENT

SUNCORP-METWAY LIMITED (ACN 010 831 722) being a mortgagee of the Land hereby consents to this deed and the grant of restrictive covenant contained herein:

E7163500.

SUNCORP METWAY Ltd A.C.N.
010 831 722 BY ITS ATTORNEY
JOSEPH CHRISTOPHER KING
WHO CERTIFIES THAT THEY ARE A
LEVEL II ATTORNEY PURSUANT
TO POWER OF ATTORNEY BOOK
~~3860 NO. 372~~ OF WHICH THEY HAVE
RECEIVED NO NOTICE OF
REVOCAION

[Handwritten signature]

[Handwritten signature]

WITNESS

SIGNED IN MY PRESENCE BY
THE SAID ATTORNEY WHO IS
PERSONALLY KNOWN TO ME

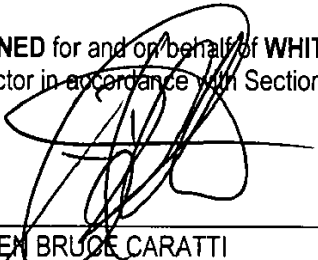
Witness:
Melita Magyara
2/30 Pitt St. Sydney.
Bank Officer.

7. HEADINGS AND INTERPRETION


- (a) Headings and sub-headings are inserted for convenience of reference only and shall not affect the interpretation of this deed.
- (b) In this deed "**construct**" shall mean to construct, commence to construct, permit or suffer to be constructed or commenced to be constructed.

EXECUTED AS A DEED

SIGNED for and on behalf of **WHITBY LAND COMPANY PTY LTD ACN 115 233 193** by authority of its director in accordance with Section 127(1) of the Corporations Act 2001:



ALLEN BRUCE CARATTI
Sales Director and Secretary



CHRISTINA MARCIA CARATTI
DIRECTOR

Fences

- (o) Construct side and rear boundary fencing using anything other than "River Sand" or similar coloured "Colourbond" fence panels or sheets with "Slate Grey" or similar coloured capping, posts and rails to a maximum height of one and eight tenths of a metre (1.8m) measured from the ground level up;
- (p) Construct fencing between the dwelling and the side boundary of the Lot or forward of the dwelling along the side and front boundaries, that is visible from the street, from any materials other than the materials of the dwelling, which match the appearance of the dwelling;
- (q) Complete construction of fencing to the dwelling any later than twenty-one (21) days from either the date of builder's handover or the date of occupation of the dwelling, whichever occurs first; or
- (r) Construct a dwelling unless the area between the front building line and the kerb is reticulated and landscaped within sixty (60) days of occupancy.

For Sale Signs

- (s) In relation only to Lots upon which a dwelling is yet to be constructed, from the date that a separate certificate of title for the Lot issues and for a period of two (2) years after that date, display or erect thereon any "For Sale" sign. For the purposes of clarity, this clause is not intended to prevent the registered proprietor of the Lot from selling or otherwise disposing of the Lot;

2. BURDEN TO RUN WITH LAND

The burden of the covenants and restrictions contained in this deed shall run and bind each of the Lots and bind the registered proprietors and their successors in title, transferees and assigns and shall endure for the benefit and be enforceable by each and every other registered proprietor of the Lots, and their successors in title, transferees and assigns.

3. JOINT AND SEVERAL OBLIGATIONS

When at any time two or more persons or corporations own a joint interest in any of the Lots, their liability hereunder will be joint and several. Any person who becomes, is or was a registered proprietor of any of the Lots will be liable for any breach of the restrictive covenant affecting the Lot which occurs while that person or corporation was the (or one of the) registered proprietor(s) of that Lot

4. RIGHT TO ENFORCE

A person who becomes a registered proprietor of any of the Lots, may whilst that person is the registered proprietor, enforce or take action in respect of a breach of the restrictive covenants created by this deed notwithstanding the breach complained of, in respect of any of the Lots, may have occurred prior to the person seeking to enforce the breach becoming the registered proprietor of the Lot.

5. SEPARATE AND DISTINCT

If any part of this deed is void or voidable, then that part shall be severed from this deed so that all parts that are not void or voidable remain in full force and effect and are unaffected by that severance.

6. TERM OF RESTRICTION

The Restrictive Covenants shall expire and cease to have effect on 31 December 2016.

of the Lot. For the purpose of a corner lot, the street frontage relates to the primary street frontage only and for the purpose of measuring the street frontage width, any truncation is ignored and the measurement is taken along the side of the Lot abutting the primary street;

- (c) If a Lot has a street frontage width of less than fifteen (15) metres, construct a dwelling with a street front elevation width of less than seventy-five percent (75%) of the street frontage width of the Lot. For the purpose of a corner lot, the street frontage relates to the primary street frontage only and for the purpose of measuring the street frontage width, any truncation is ignored and the measurement is taken along the side of the Lot abutting the primary street;

External Finish

- (d) Construct a dwelling with external wall materials not primarily made of stone, face brick or painted or coloured cement render;
- (e) Construct a dwelling without incorporating either a portico, gable or feature wall into the street front elevation of the dwelling;
- (f) Construct a dwelling unless each street facing facade is made up of at least two (2) different colours or textures with each such colour or texture (as applicable) making up at least ten percent (10%) of the total surface area of the relevant facade. For the purpose of this clause the term "facade" does not include the roof, gutters, downpipes, windows or doors;
- (g) Construct a dwelling with roofing materials other than concrete or clay tiles or colourbond sheeting (Zincalume is not permitted) and with a pitch of less than twenty-four degrees (24°);

Garage

- (h) Construct a dwelling without a garage capable of housing at least two (2) motor vehicles. Such garage shall not be constructed other than in a manner which complements the dwelling in respect to roof pitch, materials used, design, colour and external appearance;
- (i) Construct a garage without a roller or tilt type door to shield vehicles parked in the garage from the street;
- (j) Construct out buildings greater than 20m² and/or higher than 3m unless they are constructed from materials that compliment the dwelling in appearance;

Driveways

- (k) Construct a dwelling, unless a driveway and cross-over between the road and the parking area on the Lot are constructed and completed at the same time as or prior to occupation of the dwelling. Any driveway or crossover constructed shall not be less than three metres (3m) wide and no greater than six metres (6m) wide or constructed from anything other than brick pavers, concrete or similar; concrete must be coloured and not natural colour.

Solar Heaters

- (l) Install solar heaters and air conditioners on that part of a roof facing a street and the solar heaters and air conditioners shall not be painted (or consist of coloured materials) of any colours that do not match the roof colour;

Commercial Vehicles

- (m) Park commercial vehicles including trucks, buses and tractors at the dwelling or on a verge abutting the dwelling unless screened from public view at all times or unless parked during the normal course of business by a visiting tradesman;

Repairs

- (n) Repair, restore or maintain any motor vehicle, motor cycle, boat, trailer or any other vehicle unless carried out behind the building line and screened from public view at all times;

THIS DEED OF RESTRICTIVE COVENANT is made the 25th day of July 2011.

BY:

WHITBY LAND COMPANY PTY LTD ACN 115 233 193 of 48 Wickham Street, East Perth, Western Australia
(Developer)

RECITALS:

- A. The Developer is the registered proprietor of Lot 22 on Diagram 45151 being the whole of the land contained in Certificate of Title Volume 1353 Folio 245 (Parent Lot).
- B. The Parent Lot is subject to the following encumbrances:
- I. A867547 Easement to State Electricity Commission of Western Australia;
 - II. K476967 Mortgage to Suncorp-Metway Limited; and
 - III. Memorials pursuant to Water Agencies Powers Act 1984.
- C. The Developer intends to subdivide:
- I. the Parent Lot into the lots shown on Deposited Plan 67643;
 - II. that part of the Parent Lot that is Lot 9000 on Deposited Plan 67643 into the lots shown on Deposited Plan 67674.
 - III. that part of the Parent Lot that is Lot 9003 on Deposited Plan 67674 (Land) into the lots shown on Deposited Plan 67673 (Subdivision Plan).
- D. Pursuant to section 136D of the Transfer of Land Act 1893 (WA), the Developer wishes to create restrictive covenants as set out in this deed on all lots on the Subdivision Plan excluding lot 9001 (Lot or Lots, as the context requires) for the benefit of the Lots.

NOW THE PARTIES AGREE AS FOLLOWS:

1. CREATION OF RESTRICTION

Pursuant to section 136D of the Transfer of Land Act 1893 (WA), the Developer hereby creates restrictive covenants on all Lots, unless otherwise specified, in the following terms:

A registered proprietor shall not:

Compliance

- (a) Develop a Lot or construct upon a Lot a dwelling unless such development or construction is in compliance with the requirements of the Residential Design Codes, the Town Planning Scheme, the approved Detailed Area Plan (as may apply) and all relevant by-laws and policies of the relevant Shire or council;

Minimum Street Front Elevation

- (b) If a Lot has a street frontage width of greater than fifteen (15) metres, construct a dwelling with a street front elevation width of less than eighty percent (80%) of the street frontage width

Torrens Legal

Property and Commercial Lawyers

WHITBY LAND COMPANY PTY LTD
ACN 115 233 193
"Developer"

**SECTION 136D DEED OF RESTRICTIVE COVENANT
RIVA – STAGE 2A**

REF:DK:A10002(Restrictive Covenant):004D s136D Restrictive Covenant Riva2A

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