

FORM B2

Form Approval No: B4088

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED.**BLANK INSTRUMENT FORM****Deed of Restrictive Covenant
Section 136D Transfer of Land Act**

(Note 1)

Parties: **Eucalypt Property Pty Ltd** ACN 125 174 236 of Ground Floor 50 Colin Street West Perth, Western Australia (“**Registered Proprietor**”)**Recitals**

- A** The Registered Proprietor is the registered proprietor of the Balance of the Estate and was formerly the registered proprietor of all of the land comprising the Estate Land.
- B** The Registered Proprietor is in the course of subdivision of the Balance of the Estate and selling and transferring subdivided lots out of the Estate Land, and is in the process of causing registration of plans of subdivision in respect of the Balance of the Estate.
- C** The Registered Proprietor wishes to register restrictive covenants in respect of certain lots within the Balance of the Estate pursuant to Section 136D of the Transfer of Land Act so that those covenants will benefit and burden those lots.

1 Creation of Restrictive Covenants relating to Lots**1.1 Creation of Restrictive Covenants**

The Registered Proprietor pursuant to Section 136D of the Transfer of Land Act:

- (a) creates the Restrictive Covenants in respect of the Specified Lots; and
- (b) agrees that the Restrictive Covenants will be registered against the Certificate of Title to each of the Specified Lots.

2 Benefit and burden of Restrictive Covenants**2.1 Benefit and burden of Restrictive Covenants**

Subject only to clause 2.2, the burden of the Restrictive Covenants is appurtenant to and will run with each of the Specified Lots for the benefit of all of the Specified Lots to the intent that the Restrictive Covenants will bind the Registered Proprietor and the registered proprietor from time to time of each of the Specified Lots and will be for the benefit of the Registered Proprietor and any other registered proprietor from time to time of every one of the Specified Lots, but not so as to render the Registered Proprietor personally liable in respect of any Lot after the Registered Proprietor has parted with all interest in that Lot.

2.2 Expiry of Restrictive Covenants

The Restrictive Covenants expire on, and are of no force and effect after midnight on 31 December 2023.

3 Consents under Section 136E of the Transfer of Land Act**3.1 Registered Proprietor to obtain consents**

The Registered Proprietor will obtain any consents required under Section 136E of the Transfer of Land Act to the creation of this deed and the creation of the Restrictive Covenants over the Lots pursuant to Section 136D of the Transfer of Land Act.

4 Severance

4.1 Separate and distinct covenants

Each covenant in the Restrictive Covenants is a separate and distinct covenant, and if any covenant or its application to any person or circumstance is or becomes invalid or unenforceable then the remaining covenants will not be affected and each remaining covenant will be valid and enforceable to the fullest extent permitted by law.

5 Definitions

5.1 Definitions

The following words have the meanings in this deed unless the contrary intention appears:

Balance of the Estate means the land comprising Lot 9004 on Deposited Plan 412568.

Estate Land means the land in or formerly in Certificates of Title Volume 2816 Folio 100 and Volume 1404 Folio 359, and which includes the land comprising the Balance of the Estate.

Lot means a lot created upon registration of the Subdivision Plan, subject to the following encumbrances:

- (a) As to all Lots - Except and reserving metals, minerals, gems and mineral oil specified in Transfer 4286/1911.
- (b) As to Lot 9005 - Easement burden created under dealing C397027 for the benefit of DBNGP Land Access Minister.
- (c) As to Lot 9005 - Land access corridor created pursuant the Dampier Bunbury Pipeline Act 1997 under dealing H613443 for the benefit of DBNGP Land Access Minister.
- (d) As to Lot 9005 - Mortgage M603422 to ANZ Fiduciary Services Pty Ltd.
- (e) As to Lot 9005 – Easement (water supply) created on Deposited Plan 408302 under section 167 of the Planning and Development Act in favour of the Water Corporation.
- (f) As to Lots 85 to 91 (inclusive) – Covenant as to no road vehicle access to and from adjacent road granted pursuant to section 150 of the Planning & Development Act in favour of the City of Swan – see areas marked T to U on DP412582.
- (g) As to Lots 116 and 143 – Covenant as to no road vehicle access to and from adjacent road granted pursuant to section 150 of the Planning & Development Act in favour of the City of Swan – see areas marked V to W on DP412582.
- (h) As to Lot 144 – Covenant as to no road vehicle access to and from adjacent road granted pursuant to section 150 of the Planning & Development Act in favour of the City of Swan – see areas marked X to Y on DP412582.
- (i) As to Lot 9005 – Restrictive Covenant N579745.
- (j) As to Lot 9005 – Caveat N579747.

Restrictive Covenants means the restrictive covenants set out in the Schedule.

Specified Lots means the Lots to which the benefit and burden of the Restrictive Covenants apply, being all of the Lots on the Subdivision Plan except Lot 9005.

Subdivision Plan means the plan of subdivision of the Estate Land into residential lots lodged for registration at the Land Titles Division of Landgate and being Deposited Plan 412582 and which includes any plan or diagram lodged which amends or is in substitution for that plan.

5.2 References to boundary or area

A reference to a boundary or the area of a Lot is a reference to the boundary or the area of the Lot as shown on the Certificate of Title to that Lot.

EXECUTED as a deed

Schedule - The Restrictive Covenants

In the Restrictive Covenants:

“**Eucalypt**” means Eucalypt Property Pty Ltd ACN 125 174 236.

“**Estate**” means the Ariella Park Private Estate, of which the Property forms a part.

“**Lot**” means a lot created upon registration of Deposited Plan 412582 other than Lot 9005.

“**Property**” means a Lot.

“**Recreational Vehicle**” means any caravan, trailer, boat and other similar item.

“**Registered Proprietor**” means Eucalypt Property Pty Ltd ACN 125 174 236.

“**Vehicle**” means a vehicle which has an aggregate weight greater than 3.5 tonnes or a height greater than 2 metres.

“**Wall**” includes any fence and any retaining wall.

RESTRICTIVE COVENANTS

The Registered Proprietor (which expression includes the transferees, assigns and successors in title of the Registered Proprietor) covenants:

- 1 Not to breach or cause to be breached the design guidelines which have been supplied by Eucalypt to the original purchaser of the Property and which relate to the Property and construction of a residence on the Property.
- 2 Not to park or allow to be parked on the Property or any other part of the Estate any Vehicle, except during the construction of a dwelling on the Property but only if that Vehicle is being utilised in the construction of that dwelling.
- 3 Not to park or allow to be parked on or adjacent to the Property or on any other part of the Estate any Recreational Vehicle unless that Recreational Vehicle is:
 - (a) parked on the Property and is parked wholly in accordance with the requirements of the City of Swan; and
 - (b) is screened from street view.
- 4 Not to:
 - (a) alter or remove any Wall erected on a boundary of the Property; or
 - (b) allow any Wall erected on a boundary of the Property to fall into disrepair.
- 5 Not to replace or repair any Wall erected on a boundary of the Property except in the same style and colour as the existing Wall.
- 6 Not to raise the level of the surface of the Property by more than 300 millimetres.
- 7 Not to erect or display any sign boarding or advertising of any description whatsoever on the land, other than:
 - (a) a sign erected by the builder of the dwelling on the Property in accordance with the Builders Services (Registration) Act 2011 which must only be erected during the period of construction of the dwelling on the Property; and
 - (b) a “FOR SALE” sign in respect of the Property which may only be erected after a construction of dwelling on the Property has been completed.

- 8 Each of these Covenants is a separate and distinct covenant, and if any Covenant or its application to any person or circumstance is or becomes invalid or unenforceable then the remaining Covenants will not be affected and each remaining Covenant will be valid and enforceable to the fullest extent permitted by law.
- 9 These Covenants expire at, and are of no force and effect except in relation to antecedent breaches after, midnight on 31 December 2023.

Signing page

DATED: _____ 2017

SIGNED for and on behalf of **EUCALYPT
PROPERTY PTY LTD** ACN 125174 236)
its duly appointed Attorneys)

1. _____ and)

2. _____)

under a Power of Attorney dated)
_____, Registration)

No. _____ and the Attorneys
declare that they have not received any
notice of the revocation of such Power of
Attorney in the presence of:

Signature of Attorney 1

Signature of Witness 1

Signature of Attorney 2

Signature of Witness 2

Print Name in Full of Witness 1

Print Name in Full of Witness 2

Address

Address

Occupation

Occupation

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

Deed of Restrictive Covenant

LODGED BY
ADDRESS

PHONE No.
FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY Warren Syminton Ralph Pty Ltd
Lawyers
ADDRESS Level 2 Norfolk House
3 Norfolk Street
FREMANTLE WA 6160

PHONE No. (08) 9435 9435
FAX No. (08) 9433 4533

Warren Syminton Ralph Pty Ltd
Liability limited by a scheme approved under
Professional Standards Legislation

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