


FORM B4

Form Approval
No. B2641

L187476 RC
 29 Dec 2009 12:09:48 Perth

 REG \$ 110.00

SECTION 136D DEED OF RESTRICTIVE COVENANTS

LODGED BY	IRDI LEGAL	<i>Supreme Jettling</i>
ADDRESS	248 OXFORD STREET LEEDERVILLE WA 6007	<i>PO Box 3807/15 Jules</i>
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REFERENCE No.	RJ:R20102028 (176363)	
ISSUING BOX No.	227T	888

PREPARED BY	IRDI LEGAL
ADDRESS	
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INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

10/10

TITLES, LEASES, DECLARATIONS, ETC LODGED HEREWITH

1.	Received items
2.	Nos.
3.	
4.	
5.	
6.	

Receiving Clerk

EXAMINED

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.

I Richard Johnson am Solicitor the Applicant and I am authorised and have authority to make the amendments hereon.

Richard Johnson Solicitor
witness *Caroline* Solicitor 16/1/09



Other than a "For Sale" sign, a sign, boarding or advertising of any description whatsoever (other than a sign erected by a builder of the dwelling in accordance with the *Building Registration Act*) is not to be erected or displayed on the lot. A "For Sale" sign cannot be erected or displayed until the dwelling has been constructed and completed on the lot in accordance with the plans and specifications approved by the Project Manager.

may do so and reclaim the cost from the lot owner. All fencing should be covered under your household insurance policy.

Site Levels

If a retaining wall or fence has been built or erected on a lot by the developer than the site level must not be raised by more than 0.5 metre by either earthworks or imported fill.

Air Conditioning/Solar Hot Water Units/Roof Mounted Service or Equipment

Air conditioning units or evaporative coolers are required to be hidden from public view. They are required to be of a similar colour to the roof (unless the air conditioning unit or evaporative cooler is wholly contained within the volume of the building including the roof space between the ceilings of the dwelling and the underside of the roof of the dwelling).

Any solar hot water system is required to be hidden from public view from the front of the lot and fit the roof profile. The solar hot water system is not to be elevated at any angle to the roof profile and is required to otherwise match or compliment the dwelling.

Roof mounted service or equipment (including but not limited to free to air television antennas, a satellite dish or a radio antenna or aerial) are not permitted to be attached to the roof of the dwelling unless it is architecturally integrated into the dwelling, of the same colour as the roof and hidden from public view.

Letter Box

A letter box is required to be adjacent to the driveway, clearly numbered and made of the same materials which match or compliment the dwelling.

Commercial Vehicles

Commercial vehicles with an aggregate weight greater than 3.5 tonnes or height greater than 2.0 metres, including caravans etc must not be parked or stored on the property unless contained within double garage or screened from public view.

Use of Property

The carrying out of any repairs or restoration of any motor vehicle, boat, trailer, aircraft or any other vehicle is prohibited unless screened from public view.

Washing Lines/Rain Water Tanks

All washing lines and water tanks must be screened from the public view.

Other

The completed dwelling must not be used for display purposes.

Materials

Walls:

All external walls must be constructed using either concrete, clay bricks, limestone or similar materials (finished in face brickwork or render) or weather board, painted profiled fibred, cement board, or coloured corrugated steel or a combination of these materials. However, at least 60% of the materials used in external walls must be masonry.

Roofing:

Clay or concrete tiles, or Colourbond metal roofing are acceptable.

Driveways:

Each dwelling is to be provided with a driveway and crossover to be completed at the same time as the dwelling and before occupation. Maximum width of driveway shall be 6m and shall be no closer than 0.5m from any side boundary. All driveways must comprise of brick paving or block paving.

Roofs

The roof pitch is required to be greater than 25 degrees but less than 45 degrees.

A flat roof is acceptable provided that it is hidden from public view from the street by parapet walling. (This condition does not apply to that part of the roof which covers any verandah areas).

Other Building and Structures

Buildings or structures with walls not attached to or part of the main dwelling which have a roof exceeding 20m² must be constructed using the same materials as mentioned above to match and compliment the main dwelling. The requirement as to roofing also applies to these buildings and structures. Other buildings and structures with a roof area of less than 20m² may be constructed in any materials provided that those materials be of a non reflective nature.

Fencing

All fences are required to match and compliment the dwelling.

No fence is permitted forward of the building frontage setback line.

All rear and side boundary fencing between adjoining allotments must be NOT LESS THAN 1800mm high and comprise;

- (a) timber, brushwood, masonry or brick; or
- (b) capped and painted on both sides and constructed of materials known as colorbond, super six fibre cement or Hardifence.

Fencing to a property boundary where provided by the developer is not to be altered in any way. In the event of damage the lot owner shall repair in the same style and colour as provided. In the event of failure by the lot owner to repair the fence the developer

ANNEXURE "B"

STAGE 2A OCEAN HEIGHTS DEVELOPMENT CONDITIONS & BUILDING GUIDELINES

Introduction

In order to ensure the attainment of a minimum standard and to encourage home design excellence at Ocean Heights, Glenfield, these guidelines set out the minimum standards and conditions under which residential development within the estate will normally be approved.

Building Plan Approval

Two full sets of plans and specifications must be submitted to the Ocean Heights, Glenfield Project Managers (Greg Rowe and Associates – 369 Newcastle Street, Northbridge WA 6003) simultaneously with or prior to any plans submitted to the Shire of Greenough under the normal building approval procedure.

The Project Managers will peruse such plans for compliance with the Restrictive Covenants and Development Conditions and Building Guidelines and if considered to comply will return an approved set of plans to the applicant.

Development

NO development is to be commenced on any lot without the plans and specifications having been approved in writing as set out above.

Each lot must only contain 1 permanent non-transportable residential dwelling.

Architectural Features

Each external wall of a dwelling which fronts a street is required to have at least 1 of the following structures: a gable, a gablet, a bay window, a balcony, a portico, a projecting corbel or a verandah. Each external wall of the dwelling fronting the street may contain several or a combination of these structures.

Housing Minimum Size

In an endeavour to obtain and maintain high standards within the sub-division, a minimum dwelling size has been imposed by the developers of Ocean Heights, Glenfield. the dwelling must contain an area of not less than 180m².

Garage

The dwelling or other building or structure adjoining the dwelling must incorporate a double garage with parking for at least 2 motor vehicles, side by side. If the garage is constructed in a building or structure adjoining the dwelling then that building or structure must be identical to the dwelling in respect of roof pitch, the materials used the design, external appearance including colour and the quality of construction.

unless such repairs or restoration is carried out wholly within a carport or garage on the land or is screened from public view.

3. That where retaining walls or fences have been erected on any of the boundaries of the land by the Transferor, NOT to alter or remove any or the retaining walls or fences, NOT to allow or permit the retaining walls or fences to fall into a state of disrepair, and NOT to repair or renew such retaining walls or fences except in the same style and colour as the existing retaining walls and fences.
4. That if retaining walls or fences have been erected on any of the boundaries of the land by the Transferor, NOT to alter the level of the surface of the land by elevating the level by more than one half of one metre.
5. NOT to erect or display or cause to be erected or displayed on the land any sign hoarding or advertising of any description whatsoever other than a sign erected by a builder of the residence in accordance with the Builders Registration Act or a "FOR SALE" sign which may be erected after completion of a residence on the land or after a period of two years from the first issuing of the Certificate of Title to the land.
6. Not to breach or cause to be breached the **Ocean Heights, Glenfield** Development Conditions and Building Guidelines, a copy of which is annexed hereto and marked "B".
7. That the covenants herein contained shall operate and be enforceable until the day being ten (10) years after the date of issuing of the Certificate of Title to the land when such covenants will cease to have any further effect.
8. That the burden of these covenants shall run with each lot on the plan or diagram of subdivision for the benefit of every other lot on that plan or diagram. The covenants shall be enforceable against the Transferee and every subsequent registered proprietor of the land, by the Transferor and every subsequent registered proprietor of any other lot on the said plan or diagram of subdivision.
9. For the purposes of these covenants:-
 - 9.1 "**Gable**" means a triangular portion of the external wall between the enclosing lines of a pitched roof from eaves level to the apex;
 - 9.2 "**Gablet**" means a small Gable, such as in a Gambrel Roof; and
 - 9.3 "**Gambrel Roof**" means a roof having a small Gable near the apex of a hipped end.
 - 9.4 "**Portico**" means a narrow verandah or colonnade projecting from the front entrance of the dwelling.

- 1.15.1 capped and painted on both sides and is constructed of materials known as "Colorbond", "Super Six" fibre cement or "Hardifence"; or
- 1.15.2 constructed of timber, brushwood, masonry or brick.
- 1.16 Subject to paragraph 1.15, any fence which is less than 1800 millimetres in height or does not match or complement the residence or, which extends forward of the building frontage set back line.
- 1.17 A residence unless all side and rear boundary fencing is constructed and completed at the same time as or prior to occupation of the residence.
- 1.18 A letter box which is not located adjacent to the driveway, is not clearly numbered or does not match or complement the residence.
- 1.19 An air conditioning unit or evaporative cooler, unless:-
 - 1.19.1 contained wholly within the residence; or
 - 1.19.2 is installed generally below the ridge line of the roof and is of similar colour to the roof; or
 - 1.19.3 contained within the roof space between the ceilings of the residence and the underside of the roof of the residence.
- 1.20 A solar hot water heater, unless it is screened from public view from the front of the residence, fits the roof profile and is not elevated at any angle to the roof profile and otherwise matches or complements the residence.
- 1.21 Any roof mounted service or equipment (including television antennas, satellite dishes or a radio antenna or aerial) unless screened from public view from the front of the residence, is architecturally integrated into the residence or is of the same colour as the roof of the residence.
- 1.22 A clothes line or rain water tank except in accordance with the manufacturer's instructions and which is not screened from public view from the front of the residence.
- 2. NOT to:
 - 2.1 park or allow to be parked on the land or on the road or on any other land near to or next to the land, any commercial vehicles (which have 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 carport or garage on the land or are screened from public view; or
 - 2.2 carry out any repairs to or restoration of any vehicles parked on the land or on the road or on any other land near to or next to the land

- 1.7.5 a verandah with a minimum depth of 1500 millimetres which comprises a minimum of 50 percent of the front elevation of the residence; or
- 1.7.6 cement render finish to the walls of the front elevation of the residence; or
- 1.7.7 a bay window with a minimum width of 1500 millimetres.
- 1.8 A residence which does not contain a carport or garage making provision for parking of at least two motor vehicles side by side.
- 1.9 A residence which has a flat roof (excluding verandah areas) unless the roof is shielded from front view by parapet walling.
- 1.10 A carport or garage, which, if not located under the main roof of the residence:-
 - 1.10.1 is not made of the same materials as the residence; or
 - 1.10.2 does not match or complement the residence, in respect of the pitch of the roof, materials used, the design and external appearance including colour and the quality of construction.
- 1.11 Any structure with walls and a roof exceeding 20 square metres in floor area unless:
 - 1.11.1 the structure is made of the same materials as the residence,
 - 1.11.2 the roof is shielded from front view by parapet walling; and
 - 1.11.3 the structure otherwise matches or complements the residence in respect of materials used, the design and external appearance, including colour and the quality of construction.
- 1.12 Any shed or other outbuilding of less than 20 square metres in floor area which has walls and/or a roof made of or coated with zincalume or other reflective material.
- 1.13 A residence, unless a driveway and crossover between the road and parking area on the land are constructed and completed at the same time as, or prior to, occupation of the residence.
- 1.14 A driveway which is:-
 - 1.14.1 wider than 6 metres at the street boundary of the land;
 - 1.14.2 less than 0.5 metres from any side boundary of the land; or
 - 1.14.3 not constructed of brick paving or block paving.
- 1.15 Any fence unless it is:-

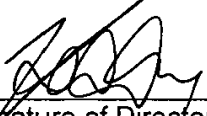
ANNEXURE 'A'
STAGE 2A
OCEAN HEIGHTS
RESTRICTIVE COVENANTS

The Transferee covenants with the Transferor:

1. NOT to construct, erect or install or permit to be constructed, erected or installed on the land hereby transferred ("the land"):-
 - 1.1 More than one non transportable private residence.
 - 1.2 A residence which is not a permanent non-transportable residence.
 - 1.3 A residence with a total floor area of less than 180 square metres inclusive of external walls but exclusive of carports, garages, verandahs and other enclosed areas.
 - 1.4 A residence or any alteration or addition to a residence using:
 - 1.4.1 wall materials which are not either predominantly painted or rendered concrete, clay bricks, limestone or other similar material finished in facework or render; or
 - 1.4.2 wall materials which are not weatherboard, painted profiled fibred cement board, coloured corrugated steel or a combination of these materials and not less than 60% of the materials used in the external walls are constructed of the masonry products referred to in paragraph 1.4.1.
 - 1.5 A residence or any alteration or addition to a residence using roofing materials which are not concrete or clay tiles or colourbond metal roofing.
 - 1.6 A residence with a roof pitch of less than 25 degrees or more than 45 degrees excluding any part of the roof which covers verandah areas.
 - 1.7 A residence which does not have a front façade facing a street containing either or a combination of:
 - 1.7.1 a Gable; or
 - 1.7.2 a Gablet; or
 - 1.7.3 at least one arch to the brickwork of the front façade with projecting masonry corbels; or
 - 1.7.4 a Portico with a minimum width of 1500 millimetres that projects forward from the main roof of the front of the residence ; or

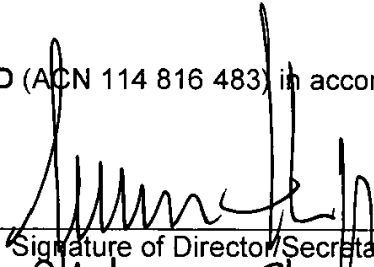
EXECUTED as a deed.

EXECUTED by **SANDPIPER ASSET PTY LTD** (ACN 114 816 483) in accordance with section 127 of the Corporations Act



Signature of Director
Kevin Healey

Print name of Director



Signature of Director/Secretary
Phillip Steiner

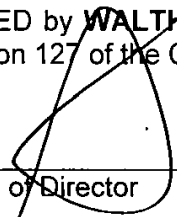
Print name of Director/Secretary

CONSENTS

WALTHAMSTOW PTY LTD (ACN 008 814 453) being the mortgagee referred to in Mortgage J411222 hereby consents to this Deed of Restrictive Covenants and to the registration of Deposited Plan 56904.

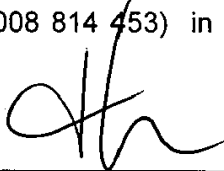
DATED the 11th day of November 2009

EXECUTED by **WALTHAMSTOW PTY LTD** (ACN 008 814 453) in accordance with section 127 of the Corporations Act



Signature of Director
STEVE MASER

Print name of Director



Signature of Director/Secretary
TONY MASER

Print name of Director/Secretary

3. SEPARATE AND DISTINCT COVENANT

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

4. TERM OF RESTRICTIVE COVENANTS

The restrictive covenants shall expire ten (10) years after the first issue of the Certificates of Title for the lots.

5. DEFINITIONS

Any terms defined in this deed shall have the same meaning when used in the restrictive covenants.

SCHEDULE

The Land:

Lot 9510 on Deposited Plan 53530 and being the whole of the land in Certificate of Title Volume 2716 Folio 290.

Encumbrances:

- (a) Easement created under Section 27A of Town Planning and Development Act – see Deposited Plan 53525 as created on Plan 19887.
- (b) Mortgage J411222 to Walthamston Pty Ltd.
- (c) Easement burden created under Section 167 P & D Act for sewerage purposes to Water Corporation – see Deposited Plan 53530 as created on Deposited Plan 53525.
- (d) Memorial – Water Agencies (Powers) Act 1984 as shown on Deposited Plans 53530 and 56904.

7 (e) Memorial K646389 Land Tax Administration Act

THIS DEED is made the 11th day of November 2009

BY:

SANDPIPER ASSET PTY LTD (ACN 114 816 483) of 81 Hamilton Street, Stirling, Western Australia ("the Owner").

BACKGROUND:

- A. The Owner is the registered proprietor of the land described in the Schedule to this deed ("the Land") subject to the encumbrances referred to in the Schedule.
- B. The Owner has subdivided the Land and has lodged a plan of subdivision with the Western Australian Planning Commission which has been approved and is now known as Deposited Plan 56904 ("the Plan").
- C. In accordance with Section 136D of the Transfer of Land Act the Owner requires each of the lots on the Plan ("the lots") other than lots 9000 and 9500 ("the Excluded Lots") to be encumbered by the restrictive covenants set out in Annexure "A" hereto ("the restrictive covenants"), so that the restrictive covenants will be noted on the Plan and on each Certificate of Title that issues for the lots (other than the Excluded Lots).

OPERATIVE PART:

This deed witnesses as follows:-

1. CERTIFICATES OF TITLE

Each Certificate of Title which issues for a lot on the Plan (other than the Excluded Lots) is to be encumbered by the restrictive covenants which will run with the land described in the Certificate of Title for the benefit of the other lots on the Plan (other than the Excluded Lots).

2. RESTRICTIVE COVENANTS

The Owner intends that the burden of the restrictive covenants is to:

- 2.1. run with each lot for the benefit of each and every other lot on the Plan (other than the Excluded Lots); and
- 2.2. be enforceable against the registered proprietor of a lot by the Owner and every subsequent registered proprietor of the other lots on the Plan (other than the Excluded Lots).

**SANDPIPER ASSET PTY LTD
(ACN 114 816 483)**

**SECTION 136D DEED OF RESTRICTIVE COVENANTS
GLENFIELD BEACH ESTATE STAGE 2A
DEPOSITED PLAN 56904**

IRDI LEGAL
248 Oxford Street
LEEDERVILLE WA 6007

Telephone: 08 9443 2544
Facsimile: 08 9444 3808

Ref: RJ:R20102028
(176363)