

**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.

**O108129 RC**

12 Mar 2019 15:46:11 Perth



Lodged By **LSV BORRELLO LAWYERS**

Address **PO Box Z5025 St Georges Terrace, Perth WA 6831**

Phone No. **9404 9100**  
 Fax No **9300 1338**  
 E-Mail **info@lsvb.com.au**

Reference No. **MLM:18314**  
 Issuing Box No. **888V**

Prepared By **LSV BORRELLO LAWYERS**

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

*1/2*

**TITLES, LEASES, DECLARATIONS ETC. LODGED HEREWITH**

1. <i>Letter</i>	Received Items
2. _____	Nos. <i>1</i>
3. _____	<i>[Signature]</i>
4. _____	Receiving Clerk
5. _____	
6. _____	

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**

NOT USED

Dated this 7<sup>th</sup> day of MARCH 2019

EXECUTED as a DEED:

Signed by VINCENZO ROBERTO PETRACA, )  
being an employee of **Mirvac (WA) Pty Ltd (ACN 095** )  
**901 769**) who holds the position )  
of SENIOR DEVELOPMENT MANAGER, )  
as attorney for **Mirvac (WA) Pty Ltd (ACN 095 901** )  
**769**) under Power of Attorney No.O053800 in the )  
presence of:



Signature of Witness

WILLIAM JACOB FRENCH

Full Name of Witness (please print)

LEVEL 39 108 ST GEORGES TCE PERTH WA 6000

Address of Witness (please print)

ASSISTANT DEVELOPMENT MANAGER

Occupation of Witness (please print)

Signed by STEVEN KAVALSKY, )  
being an employee of **Mirvac (WA) Pty Ltd (ACN 095** )  
**901 769**) who holds the position )  
of PROJECT DIRECTOR, )  
as attorney for **Mirvac (WA) Pty Ltd (ACN 095 901** )  
**769**) under Power of Attorney No.O053800 in the )  
presence of:



Signature of Witness

WILLIAM JACOB FRENCH

Full Name of Witness (please print)

LEVEL 39 108 ST GEORGES TCE PERTH WA 6000

Address of Witness (please print)

ASSISTANT DEVELOPMENT MANAGER

Occupation of Witness (please print)

- (i) except in accordance with the manufacturer's instructions; and
- (ii) in a location in which it can be seen from immediately adjacent streets; or
- (c) gas and electricity meter boxes in locations in which they can be seen from immediately adjacent streets, unless the boxes are painted to match the adjacent wall colour of the dwelling, garage, or carport.

**9. Excess materials**

not to store any excess building materials on the Lot.

**10. Signage**

10.1. subject to clause 10.2, not to erect or display on the Lot any sign hoarding or advertising of any description whatsoever, except for professional signage advertising the sale or lease of a fully completed dwelling constructed on the Lot. Any sign or advertising material erected or displayed on the Lot in breach of this covenant may be removed without notice by the Developer's Agent.

10.2. clause 10.1 does not apply to any Lot that is being used as a Display Home pursuant to an agreement with the Developer.

**11. No disrepair**

not to permit or allow the Lot or any part of it, including any dwelling, to fall into a state of disrepair or disorder.

**12. Parking Large Vehicles, etc.**

not to park any Commercial Vehicle on the Lot unless it is not visible from the street.

- (a) is not accompanied by front fencing;
- (b) is higher than 0.9 metres above the natural ground level of the Lot;
- (c) is not at least 50% visually permeable above the height of 300mm above the natural ground level of the Lot; and
- (d) is not consistent with or complementary to the Primary Elevation's materials and colours;

5.3. return and dividing fences (side and rear) that:

- (a) do not commence 0.5 metres behind the building line; and
- (b) are not constructed of 'Colorbond'® that is of the colour "Shale Grey"; or

5.4. fences on the Secondary Street boundary of a Corner Lot that:

- (a) do not have a set back of at least three (3) metres from the corner truncation;
- (b) are not constructed of Colorbond® that is of the colour "Shale Grey"; and
- (c) exceed 1.8 metres in height above the natural ground level of the Lot;

## 6. Existing Feature Fencing

not to alter any existing feature estate fencing on any Lot installed by the Developer without the prior written approval of the Developer's Agent.

## 7. Colours and materials

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- 7.1. a dwelling which does not have a Primary Elevation comprised of a minimum of two different wall materials or two different wall colours (excluding colours and materials used on the roof, windows and any doors); or
- 7.2. a dwelling which does not use light or neutral base colours as the dominant colours on the Primary Elevation (primary colours and dark colours such as grey, brown, black, and purple may be used with the Developer's prior written approval but not as the dominant colour and the Developer may refuse to approve the use of such bright primary and dark colours if their use is not in keeping with the balance of the estate of which the Lot forms part).

## 8. Outbuilding, TV, and other antennae and services

- 8.1. not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Developer, an Outbuilding, unless the Outbuilding is concealed from public view, or which, in the Developer's opinion, is designed to complement the dwelling;
- 8.2. not to construct, erect or install or permit to be constructed, erected or installed on the Lot:
  - (a) any pipes, wired services, clothes drying areas, hot water storage tanks and other such service items in a location in which they can be seen from immediately adjacent streets (photovoltaic panels due to their orientation requirements are exempt);
  - (b) not to install or erect or permit the installation or erection of a TV antenna, satellite, or cable dish or radio mast;

- (b) does not have a 90mm diameter storm water pipe provided under the driveway to allow for future irrigation;
- 2.3. not to remove any street trees to enable the construction, erection or installation of the driveway and crossover on the Lot; and
- 2.4. not to construct, erect or install or permit to be constructed, erected or installed on the Lot a waste bin store area unless it is concealed from public view (for example, by adding storage areas within garages whilst maintaining the minimum vehicle parking requirement or by providing usable access to a screened area either behind the garage or the wing fence either side of the dwelling).

### 3. Roofs

not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling with a roof that does not possess Overhanging Eaves (garages, carports, and open structures such as alfresco areas are exempt).

### 4. Elevations

not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling (single or two storey) that does not possess Overhanging Eaves to all elevations, provided that the following are exempt from this requirement:

- (a) garages;
- (b) carports;
- (c) open structures such as alfresco areas;
- (d) zero lot walls;
- (e) feature walls with/without minor window openings;
- (f) non-habitable rooms;
- (g) elevations facing south (excluding Primary Elevations); and
- (h) walls which do not include windows.

### 5. Fencing

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

#### 5.1. front fencing, which viewed from the street or a public space:

- (a) is higher than 0.9 metres above the natural ground level of the Lot;
- (b) is not at least 50% visually permeable above the height of 300mm above the natural ground level of the Lot; and
- (c) is not consistent with or complementary to the Primary Elevation's materials and colours,

provided that, where a dwelling has a Secondary Street Frontage, the negative covenants contained in clause 5.1(a) to (c) apply to all of the dwelling's street front fencing (ie., facing both streets);

#### 5.2. side fencing (on common boundaries) forward of dividing fences that:

**SCHEDULE  
RESTRICTIVE COVENANTS**

The registered proprietor for the time being of each Lot covenants in respect of its Lot:

**1. Dwelling features**

not to construct, erect or install or permit to be constructed, erected or installed on a Lot that has a single street frontage, a dwelling:

- 1.1 that is not designed in compliance with the mandatory requirements of the Guidelines;
- 1.2 that has publicly visible elevations that are not carefully articulated by way of the inclusion of one or more of the following acceptable integrated feature elements:
  - (a) a veranda with a separate roof and supporting posts, pillars, or piers;
  - (b) an entry feature such as a portico (minimum 1 pier/post), masonry gateway wall, or entry pergola;
  - (c) a balcony;
  - (d) a projecting blade wall (minimum 500mm in width projecting at least 300mm above the eaves);
  - (e) a built-in planter box (at least 1m in length) that is a minimum of two (2) courses above finished floor level;
  - (f) a roof feature such as a gambrel, end gable, panel clad spandrel to a skillion roof; and/or
  - (g) a window hood/canopy;and,
- 1.3 that does not have main windows that are of a square or vertical proportion and that are consistent in shape and style (minor horizontal windows can be used in feature or minor wall sections only).

**2. Garages, Driveways and Storage**

- 2.1. not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling that does not possess a garage or a carport (whether single or double) that:
  - (a) matches or complements the dwelling in respect of the pitch of the roof, materials used and the design and external appearance, including colour and the quality of construction;
  - (b) in the case of a carport only, is not set back 0.5m behind the main dwelling; and
  - (c) in the case of a garage only, is not set back behind the dwelling.
- 2.2. not to construct, erect or install or permit to be constructed, erected or installed on the Lot a driveway or crossover that:
  - (a) is comprised or constructed of gravel (including pea gravel or compacted gravel), asphalt or grey concrete; or

**4. AUTHORITY**

The Developer authorises LSVB Legal Pty Ltd (ACN 606 211 241) of Level 27 Exchange Tower, 2 The Esplanade, Perth, Western Australia (**LSV Borrello Lawyers**), and any solicitor employed by LSV Borrello Lawyers, to comply with any requisitions issued by the Registrar of Titles, and, within this general authority, the Developer gives the power to LSV Borrello Lawyers and any solicitor employed by that company to make any minor alterations to this Deed which may be necessary to effect the registration of this Deed.



- (e) Easement burden created under s.167 P & D Act for electricity purposes to Electricity Networks Corporation. See Deposited Plan 414495 as created on Deposited Plan 411140;
- (f) Caveat No.N941248;
- (g) Easement No.O010952 to Water Corporation for pipeline purposes – See Deposited Plan 414495 registered 18/10/2018;
- (h) Easement burden created under s.167 P & D Act for sewerage purposes to Water Corporation – See Deposited Plan 414495; and
- (i) Easement burden created under s.167 P & D Act for electricity purposes to Electricity Networks Corporation- See Deposited Plan 414495;

**Guidelines** means the 'Madox Design Guidelines' and which comply with the City's specifications;

**Outbuilding** means a shed, storeroom, studio, or workshop, or granny flat or other such structure that does not comprise part of the main dwelling;

**Overhanging Eaves** means eaves that are not less than 350 millimetres in width;

**Land** means Lot 9004 on Deposited Plan 414495, being the whole of the land comprised in Certificate of Title Volume 2956 Folio 878;

**Lots** means lots 145 to 163 (inclusive) and lots 172 to 182 (inclusive), all of which are identified on the Plan, and **Lot** has a corresponding meaning;

**Plan** means Deposited Plan 415594;

**Primary Elevation** mean the elevation of the dwelling which is usually inclusive of the main entry and the majority of its architectural features and which faces or is oriented towards the Primary Street;

**Primary Street** means the street that the Lot primarily fronts or faces;

**Restrictive Covenants** means the restrictive covenants, the subject of this Deed, being more specifically the covenants referred in the Schedule;

**Schedule** means the schedule to this Deed;

**Secondary Street** means any street that the Lot does not primarily front or face; and

**Secondary Street Frontage** means a dwelling design which, with the approval of the City, uses the Secondary Street as the dwelling's primary frontage by locating both the vehicular and pedestrian access points on the Secondary Street.

## 1.2 Interpretation

Unless the context otherwise requires, in this Deed:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons includes 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; and
- (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.

Headings shall be ignored in construing this Deed.

## 2. RESTRICTIVE COVENANTS

- (a) Each of the Lots is to be encumbered by the Restrictive Covenants.
- (b) Pursuant to s 136D of the Act and this Deed, the burden of the Restrictive Covenants shall run with each of the Lots for the benefit of every other Lot and the Restrictive Covenants shall be enforceable against the registered proprietor of each Lot by the Developer and every subsequent registered proprietor of a Lot.

## 3. TERM OF RESTRICTIVE COVENANTS

The Restrictive Covenants shall expire and cease to have effect from and including 31 December 2037.

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### S.136D Restrictive Covenant

(Note 1)

BY

**Mirvac (WA) Pty Ltd (ACN 095 901 769)** of Level 39 108 St Georges Terrace PERTH WA 6000  
(the "Developer")

#### RECITALS

- A The Developer is the registered proprietor of the Land.
- B The Land is subject to the Encumbrances.
- C The Developer intends to subdivide the Land in manner shown on the Plan and has obtained the approval of the Commission to such subdivision.
- D In accordance with section 136D of the Act, the Developer 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 certificate of title.

#### OPERATIVE PART

##### 1. DEFINITIONS AND INTERPRETATION

###### 1.1 Definitions

In this Deed the following words and expressions shall have the following meanings:

**Act** means the *Transfer of Land Act 1893 (WA)*, as amended;

**City** means the local government of the City of Armadale and any replacement of it;

**Commercial Vehicle** means any commercial vehicles including trucks, utilities, caravans, boats, trailers, or any other mobile machinery;

**Commission** means the Western Australian Planning Commission;

**Corner Lot** means any Lot that is situated on the corner, or intersection, of a Primary Street and Secondary Street;

**Developer's Agent** means Mirvac Real Estate Pty Ltd (ACN 003 342 452) of Level 39, 108 St Georges Terrace, Perth, Western Australia;

**Display Home** means a dwelling that is constructed, decorated, and, usually, furnished for prospective homebuyers to view;

**dwelling** means a permanent, non-transportable private residence;

**Encumbrances** means:

- (a) N419652 - Easement burden for right of carriageway purposes. See sketch on Deposited Plan 412669. Registered 26/8/2016;
- (b) N419659 - Easement burden for sewer purposes. See sketch on Deposited Plan 406439. Registered 26/8/2016;
- (c) N662879 - Easement to Electricity Networks Corporation for transmission works purposes. See sketch on Deposited Plan 414495. Registered 30/6/2017;
- (d) Easement burden created under s.167 P & D Act for sewerage purposes to Water Corporation. See Deposited Plan 414495 as created on Deposited Plan 411140;

**Document Notes:**

IMPORTANT: THIS PAGE FORMS PART OF DOCUMENT [O108129] AND MAY CONTAIN REFERENCES TO AMENDMENTS OR CORRECTIONS TO THE DOCUMENT

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23/4/2019 10:49:38

Registration date amended to 18.4.2019 at 9.00 hours due to lot sync process. See letter from lodging party dated 8.3.2019 in Application O108130.