

**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.

EXAMINED

OFFICE USE ONLY  
**N419653 E**  
 26 Aug 2016 15:36:30 Perth  


LODGED BY IRDI LEGAL  
 ADDRESS 248 OXFORD STREET LEEDERVILLE WA 6007  
 PHONE No. 9443 2544  
 FAX No. 9444 3988  
 REFERENCE No. M/H: P20140730  
 ISSUING BOX No. 243V

**Borrello Graham Lawyer**  
 PO Box 7990  
 Cloisters Square WA 6850  
 Phone: (08) 9404 9100  
 Facsimile: (08) 9300 1338

PREPARED BY IRDI LEGAL  
 ADDRESS  
 PHONE No. FAX No.

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

*A*  
*T*

TITLES, LEASES, DECLARATIONS, ETC LODGED HEREWITH

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

Receiving Clerk *[Signature]*

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.

**Consent of Water Corporation**

SIGNED by Josephus Johannes Henricus Mensink the Manager, Procurement and Property Branch of Water Corporation (a Level 1 Attorney) and by Domenico Papalia the Manager, Property Acquisitions of Water Corporation (a Level 1 Attorney) as the attorneys for Water Corporation who state that they have no notice of revocation of the Power of Attorney No N285555 dated 21 March 2016 under which they sign in the presence of:

[Signature]  
Witness

LEANNE COOK  
Name (please print)

629 Newcastle Street,  
Address

Leederville WA 6007  
Address (continued)

ACQUISITIONS SUPPORT OFFICER  
Occupation

[Signature]  
Witness

LEANNE COOK  
Name (please print)

629 Newcastle Street,  
Address

Leederville WA 6007  
Address (continued)

ACQUISITIONS SUPPORT OFFICER  
Occupation

[Signature]  
Attorney

**Josephus Johannes Henricus Mensink**

**Manager, Procurement and Property of Water Corporation**  
Designated Post

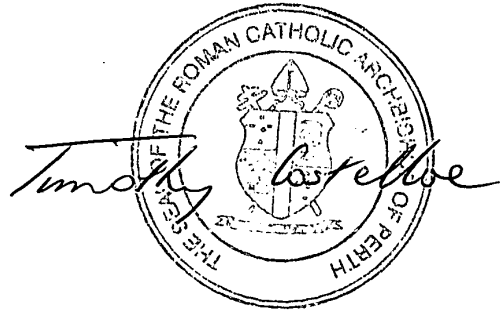
[Signature]  
Attorney

**Domenico Papalia**

**Manager, Property Acquisitions of Water Corporation**  
Designated Post

Executed by the parties as a deed.

THE SEAL OF THE ROMAN CATHOLIC ARCHBISHOP OF PERTH was hereunto affixed by TIMOTHY COSTELLOE, the Roman Catholic Archbishop of Perth for the time being and attested by him in the presence of:



Witness signature

Witness name (please print)

Witness address (please print)

Witness occupation (please print)

Jennifer Lazberger  
EA to the Archbishop  
Catholic Church Office  
249 Adelaide Terrace  
PERTH WA 6000

Signed by Donato Di Florio in the presence of:

*[Handwritten signature]*

Witness signature

Witness name (please print)

Witness address (please print)

Witness occupation (please print)

DAVID BARNATO  
76 ROBERTS ST OSBORNE PARK  
CONSULTANT

Signed by Giuseppina Di Florio in the presence of:

*[Handwritten signature]*

Witness signature

Witness name (please print)

Witness address (please print)

Witness occupation (please print)

DAVID BARNATO  
76 ROBERTS ST, OSBORNE PARK  
CONSULTANT

**Schedule**

**1 Church Tenement (clause 1.1(b))**

Lot 334 on Deposited Plan 28770 and being the whole of the land in Certificate of Title Volume 2512 Folio 891.

Encumbrances: Easement L581502, Notification M514165

**2 Di Florio Tenement (clause 1.1(e))**


Lot 121 on Deposited Plan 404983 and being the whole of the land in Certificate of Title Volume 2882 Folio 182.

Encumbrances: Nil.

**Consent of Water Corporation**

**Water Corporation** having the benefit of Easement L581502 and being the public authority referred to in Notification M514165 consent to this Deed of Easement.

Dated: 24<sup>th</sup> day of May 2016.



Timothy Costello

## **6 General**

### **6.1 Further assurances**

- (a) The Church and the Di Florio mutually agree that they will do and execute all things deeds and documents as are necessary on their respective parts to give effect to the terms of this deed with all due expedition and diligence.
- (b) Without limitation, each party covenants and agrees to sign all applications and other documents and procure all necessary consents and do all things necessary to procure expeditiously the registration of this deed at the Western Australian Land Information Authority under the provisions of the *Transfer of Land Act 1893*.

### **6.2 Deed binding**

This deed will be binding on the Church and Di Florio and each person who has executed it despite:

- (a) the failure of any other person named as a party to execute it;
- (b) the avoidance or unenforceability of any part of this deed; or
- (c) the avoidance or unenforceability of this deed or any part of this deed against any signatory or intended signatory.

### **6.3 No modification of easement without consent**

- (a) The easements and rights granted and created by this deed will not be modified, surrendered, released or abandoned either wholly or partially except with the prior written consent of the Church and Di Florio.
- (b) No party may make application to any Court or to the Registrar of Titles for the partial or whole modification or extinguishment of the easement and rights or their removal from the Register Book except with the prior written consent of the other party.

### **6.4 Planning Commission approval**

If for any reason this deed requires the consent of the Western Australian Planning Commission, then it is conditional upon that consent being given.

### **6.5 Legal costs and stamp duty**

The Church must pay the legal costs of and incidental to the instructions for and the preparation, execution and stamping of this deed in triplicate and all duties.

- (c) The Church will pay for and keep on foot a public liability insurance policy in the sum of \$10,000,000 in respect of the Easement Site and will arrange for the interest of Di Florio to be noted thereon and a copy to be produced to Di Florio on request; and
- (d) The Church will be responsible for the removal of any trees or other obstacles which may fall, obstruct or lodge on the Easement Site,
- (e) The Church will, until the adoption of the Road or the surrender of the easements granted pursuant to clause 2, maintain the Easement Site at its cost in good order, repair and condition.
- (f) If any dispute arises between the parties under or in respect of the provisions contained in this clause, the dispute will be referred to the arbitration of the President for the time being of the Law Society of Western Australia or his or her nominee for the purpose, and will be determined in accordance with the provisions of the *Commercial Arbitration Act 2012*.

#### **4 No Restrictions on Easement Site**

Neither party must:

- (a) erect or suffer to be erected at any time any dividing fence across or on any portion of the Easement Site other than its edges; or
- (b) place or allow any obstacles or improvement to be placed, erected or left on the Easement Site,

which will have the effect of restricting the use or enjoyment of the Easement Site by any entitled party.

#### **5 Vesting to Create Public Road**

The Church and Di Florio mutually agree that if:

- (a) Di Florio subdivides or develops that part of the Di Florio Lot that is immediately adjacent to the Easement Site ; and
- (b) as a condition of any approval to the subdivision or development a public road is required to be vested in a relevant authority within or on the Easement Site or in lieu of the right of carriageway over the Easement Site or
- (c) for any other reason, the Road or any part thereof is proposed to be adopted as a public road,

they will each vest in the relevant local authority or other government agency as may be required one half of the land that is necessary to create a public road within the Easement Site or in lieu of the right of carriageway over the Easement Site and both the Church and Di Florio agree that they will sign all necessary documents as are required to give effect to such vesting.

- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) a reference to a person includes a corporation and any entity capable of being the subject of legal proceedings;
- (e) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (f) if a word or phrase is defined in this deed, its other grammatical forms have a corresponding meaning;
- (g) 'including' and similar expressions are not words of limitation;
- (h) a reference to a party to this deed includes the party's successors, permitted substitutes and permitted assigns and, where applicable, the party's legal personal representatives; and
- (i) a right or obligation of any two or more persons confers that right or imposes that obligation, as the case may be, on each of them severally and on any two or more of them jointly.

## **2 Grant of Easement**

- (a) The Church now grants to Di Florio as a right attached to the Di Florio Lot a right of carriageway together with full right and liberty for Di Florio and their Agents and Di Florio's successors in title and their Agents to go, pass and re-pass at all times on foot or by vehicle onto, over, along, across and out of that part of the Church Lot that comprises the Easement Site subject to the covenants and agreements contained in this deed.
- (b) Di Florio and the Church mutually agree that neither they nor their Agents will at any time obstruct any part of the Easement Site.

## **3 Costs Relating to Easement Site**

- (a) The Church will construct at its cost a road and pavement on the Easement Site to a standard required by the City of Armadale for residential or commercial use and will comply with any other State or Federal government, municipal or statutory body or authority requirements in connection thereof (the Road) PROVIDED HOWEVER that when that part of the Di Florio Lot that is immediately fronting the Easement Site is subdivided into residential lots, Di Florio shall pay to the Church 50% of the construction costs of the Road in accordance with s.159 of the *Planning & Development Act 2005* upon production of paid invoices evidencing the construction of the Road;
- (b) The Church will provide and maintain at its cost all drainage and storm water facilities as may be reasonably necessary ;

19.



# Deed of Easement

**Date** 24 May 2016

**Parties**

The Roman Catholic Archbishop of Perth of Victoria Square, Perth, Western Australia (Church)

Donato Di Florio and Giuseppina Di Florio both of corner of Nicholson and Forrest Roads, Forrestdale, Western Australia (Di Florio)

**Background**

- A The Church is registered or entitled to be registered as the proprietor of the Church Lot.
- B Di Florio is registered or entitled to be registered as the proprietor of the Di Florio Lot.

**The parties agree**

ABN 99 593 347 728  
 WESTERN AUSTRALIA DUTY  
 TSF 01/07/16 12:26 003289834-001 V6 Y  
 DUTIABLE VALUE \$ \*\*\*\*\*1,000  
 DUTY \$ \*\*\*\*\*19.00

## 1 Definitions and Interpretations

### 1.1 Definitions

In this deed:

- (a) **Agents** means the tenants, employees, invitees, contractors and visitors of the relevant party or person;
- (b) **Church** means the Roman Catholic Archbishop of Perth and his successors and assigns and the registered proprietor for the time being of the Church Lot;
- (c) **Church Lot** means the lot described in Item 1 of the Schedule subject to the encumbrances (if any) described in Item 1;
- (d) **Di Florio** means Donato Di Florio and Giuseppina Di Florio and their successors and assigns and the registered proprietor for the time being of the Di Florio Lot;
- (e) **Di Florio Lot** means the lot described in Item 2 of the Schedule subject to the encumbrances (if any) described in Item 2;
- (f) **Easement Site** means the area marked C on the Plan; and
- (g) **Plan** means Deposited Plan 406439;
- (h) **Schedule** means the schedule to this deed.

### 1.2 Interpretation

In this deed, unless the context otherwise requires:

- (a) headings and clause numbers are for convenience only and do not affect the interpretation of this deed;





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FORM B2

Form Approval  
No. B2620

WESTERN AUSTRALIA  
TRANSFER OF LAND ACT 1893 AS AMENDED

# BLANK INSTRUMENT FORM

Deed of Easement

(Note 1)

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