

FORM B2

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

RESTRICTIVE COVENANT

under Section 136D of the TLA

(Note 1)

BY

BENNETT SPRINGS LAND DEVELOPMENT PTY LTD (ACN 609 148 227) of care of NKH Pty Ltd Level 2, 100 Railway Road, Subiaco, Western Australia 6018 (**Owner**).

RECITALS

- A The Owner is the registered proprietor of the Land.
- B The Land is subject to the Specified Encumbrances but is otherwise free of all encumbrances.
- C The Owner intends to subdivide the Land in the manner shown on the Plan.
- D In accordance with section 136D of the Act, the Owner requires the Lots to be encumbered by the Restrictive Covenants so that the Restrictive Covenants will be noted on the Plan and, when the separate certificates of title issue for the Lots, the burden of the Restrictive Covenants will be noted on each such certificate of title.

OPERATIVE PART

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

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

Building Guidelines means the document titled 'Building Design Guidelines Bennett Quarter' as set out in the schedule to this document.

City means the City of Swan.

Corner Lot means Lots 401, 408, 413, 425 and 426 on the Plan.

Dwelling means a permanent non-transportable residential dwelling.

Land means:

- (a) Lot 624 on Plan 3698 being the whole of the land in Certificate of Title Volume 1431 Folio 330; and
- (b) Lot 625 on Plan 3698 being the whole of the land in Certificate of Title Volume 1857 Folio 739.

Lots means all of the lots on the Plan (including Corner Lots) and where a lot is referred to by number means the lot identified on the Plan by that number.

Plan means Deposited Plan 420577.

Public Open Space means land used or intended for use for recreational purposes by the public and includes parks, public gardens, playgrounds and sports fields.

Restrictive Covenants means each of the restrictive covenants set out in this document.

Specified Encumbrances means:

- (a) Mortgage O946600;
- (b) covenant under section 150 of the Planning and Development Act 2005 (WA) in relation to vehicle access restrictions;
- (c) restrictive covenant under section 129BA of the Transfer of Land Act 1893 (WA) in relation to fire protection;
- (d) easement under sections 195 and 196 of the Land Administration Act 1997 (WA) in relation to public access;
- (e) notification under section 70A of the Transfer of Land Act 1893 (WA) notifying noise requirements;
- (f) notification under section 165 of the Planning and Development Act 2005 (WA) notifying of a bushfire prone area; and
- (g) notification under section 165 of the Planning and Development Act 2005 (WA) notifying of transport noise.

1.2 Interpretation

In this document unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include 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 like words and phrases have corresponding definitions;
- (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;
- (g) the schedules and annexures form part of this document; and
- (h) terms used in this document which are capitalised but are not otherwise defined have the same meanings given to them in the Building Guidelines.

1.3 Headings

Headings shall be ignored in construing this document.

2 RESTRICTIVE COVENANTS

2.1 Burden and benefit

The burden of the Restrictive Covenants shall run with each of the Lots for the benefit of each of the other Lots. The Restrictive Covenants shall be enforceable against the registered proprietor of a Lot by the Owner and every subsequent registered proprietor of each other Lot.

2.2 Restrictive Covenants

The registered proprietor for the time being of a Lot **must not do** any of the following:

- 2.2.1 develop the Lot otherwise than in accordance with the Building Guidelines (unless approved by the Owner in writing) or any approval issued by the City;
- 2.2.2 construct, erect or install, or permit to be constructed, erected or installed on the Lot any Dwelling other than a Dwelling in accordance with the following specifications:

Construction

- (a) must address the Primary street in terms of the main pedestrian entry;
- (b) contain a habitable room overlooking the Primary street and/or Public Open Space;
- (c) incorporate at least one (1) window facing the Primary street;
- (d) clear glaze all windows and all windows must be at least 12 courses high and 1.2m wide;
- (e) use a Feature façade material (covering at least 15% of the front façade) of stone, ceramic tiling, metal cladding, timber cladding or weatherboard in addition to standard face brick or rendered walls;
- (f) paint the roof with a colour that is not overly bright and is not blue, red or yellow or a combination thereof;
- (g) contain at least two (2) Elevation features in the Primary street façade, one of which must be an articulated Entry feature such as a portico, veranda, pergola or integrated porch with a minimum depth of 1.2 metres with separate roof supports;
- (h) incorporate at least one (1) Supplementary elevation feature into the Primary street façade;
- (i) have a building area of not less than 140 square metres (including all walls, but excluding garages, carports, patios/outdoor living areas);

Roofscapes

- (j) all traditional hipped and Gabled roofs are required to have no less than a 24 degree pitch;

- (k) overhanging eaves are required to a portion of the front elevation;
- (l) Skillion roofs must:
 - (i) have no less than 10 degrees pitch but no more than 15 degrees pitch; and
 - (ii) must have no less than 300 millimetres overhang to all sides (except in the case of parapet walls);
- (m) flat roofs must be hidden from public view (including Primary streets and Secondary streets);
- (n) must not have any curved roofs;

Garages

- (o) except in the case of laneway Lots, all carports or garages must be located under the main roof;
- (p) the materials, design features and colours of garages or carports must be consistent with those of the Dwelling;
- (q) garages or carports must be located no less than 0.5 metres behind the front building line (measured from the most habitable room on the Primary street elevation and not the projection of a feature);
- (r) garages and carports must include a fully operational door prior to occupation;
- (s) must have a double garage or carport adequate for at least two motor vehicles parked side by side or end to end unless otherwise prohibited by the City;

Driveways

- (t) all crossovers and driveways:
 - (i) must be constructed and completed prior to occupation;
 - (ii) must not be constructed from plain, uncoloured concrete; and
 - (iii) must be constructed from brick or concrete pavers, stencilled or stamped concrete finishes or poured exposed aggregate;
- (u) have a driveway width of no more than 6 metres wide at the street boundary of the Lot;
- (v) to facilitate reticulation, must install a pipe (that is no less than 90 millimetres in diameter) 300 millimetres below the full width of any driveway and approximately 600 millimetres setback from the front boundary;

Fences and Walls

- (w) must not remove any fences, retaining walls or cross overs constructed

by the Owner, including the entry statement which must not be removed, painted or altered in any way without the Owner's prior consent;

- (x) retaining walls must be visible from the street and/or public areas and must be constructed with materials that are consistent with those provided by the Owner;
- (y) front fences must be no more 0.95 metres in height and must be a minimum of 50% visually permeable with materials that are consistent with the front elevation Dwelling;
- (z) all boundary (side and rear) fencing must be no higher than 1.8 metres and be constructed from colorbond material in the colour 'shale grey';
- (aa) all side boundary fencing must not extend forward of the building frontage setback line;
- (bb) return fencing must have a setback no less than 1.5 metres from the front corner of a Dwelling to which it connects or directly relates with materials and colours to be consistent with the front elevation of the Dwelling;
- (cc) feature fencing must not be modified, replaced, removed or damaged in any way; and
- (dd) the fencing guidelines prescribed by any authority, development or planning conditions prevail over the fencing guidelines contained in the Building Guidelines to the extent of any inconsistency;

Outbuildings

- (ee) construct all outbuildings behind the front or secondary building line and with materials and colours that are consistent with the Dwelling;
- (ff) street access to all outbuildings must be provided via the driveway or via a secondary separate driveway no more than 3.5 metres in width;
- (gg) driveways accessing additional garages must be separated from the main driveway by no less than 600 millimetres of permeable landscaping (paved or impermeable surfaces are not permitted);

Services

- (hh) clothes drying areas, water storage tanks, hot water systems and air conditioning units must be hidden from the Primary street and/or Secondary street or from public view;
- (ii) bin storage areas must be concealed from street view and plans must be submitted to the Owner for approval, which will be granted where the proposed bin storage area:
 - (i) ensures there is rear access either through the garage or around the side of a Dwelling to a designated area; and
 - (ii) provides adequate space within the garage for both vehicles

and bins (usually an internal depth of no less than 6 metres is required);

- (jj) roof mounted services such as television aerials, satellite dishes, water tanks, hot water services and air conditioning units must not be visible from the Primary street and/or Secondary street or from public view;
- (kk) solar panels and collectors for hot water units may be visible from public view provided they are located on north facing Secondary streets where performance would otherwise be affected;

Storage

- (ll) store all vehicles, boats, trailers, caravans and the like behind fence and main building lines and otherwise concealed from public view.

Corner Lots

2.2.3 in addition to the specifications contained in paragraph 2, where the Lot is a Corner Lot, construct, erect or install, or permit to be constructed, erected or installed on the Corner Lot any Dwelling other than a Dwelling in accordance with the following specifications:

- (mm) address all street frontages by incorporating windows and extending the Primary Street elevation materials onto the Secondary Street elevation at least to a point in line with the masonry fencing pier installed by the Owner or, where there is no masonry fencing pier, to a point 4 metres back from the Corner Lot boundary truncation;
- (nn) have no blank walls visible from Public areas or streets;
- (oo) use semi permeable fencing on the Secondary street boundary that is based on a powder coated slat fencing design;

2.3 Planning Scheme

The Restrictive Covenants only apply to the extent that they are not inconsistent with any applicable planning scheme or the requirements of any authority.

2.4 Expiry of Restrictive Covenants

The Restrictive Covenants are not limited in term and will operate and be enforceable until this Restrictive Covenant is removed from the title to the Lot.

3 AUTHORITY

The Owner authorises Lavan of Level 18, 1 William Street, Perth, Western Australia to comply with any requisitions issued by the Registrar of Titles and within this general authority and power to make any minor alterations which may be necessary to effect registration of this deed.

4 CONSENTS

The Owner must obtain all consents necessary for the registration of this document with Landgate.

Dated this

day of

2022

EXECUTED as a Deed

Executed by **Bennett Springs Land**)
Development Pty Ltd ACN 609 148 227)
in accordance with section 127 of)
the *Corporations Act 2001* (Cth) by:)

Signature of Director

Signature of Director*/Secretary*

Full Name (please print)

Full Name (please print)

Schedule – Building Guidelines

[Building Guidelines contained in Annexure C of this contract are to be annexed to this restrictive covenant when lodging at Landgate]

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

LODGED BY	Lavan
ADDRESS	Level 18 1 William Street PERTH WA 6000
PHONE No.	9288 6000
FAX No.	9288 6001
REFERENCE No.	ETK:PCB:1171709
ISSUING BOX No.	99A

PREPARED BY	Lavan
ADDRESS	Level 18 1 William Street PERTH WA 6000
PHONE NO.	9288 6000
FAX NO.	9288 6001

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.	_____	Receiving
6.	_____	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