

## BLANK INSTRUMENT FORM

RESTRICTIVE COVENANTS

(Note 1)

### EDEN GREEN – STAGE 1 – STANDARD ALLOTMENTS Deed of Restrictive Covenant (Pursuant to section 136D of the Transfer of Land Act)

**Date:**

**Parties:** GOLD ESTATES OF AUSTRALIA (1903) LIMITED (ACN 009 473 036) of 10<sup>th</sup> Floor, Mount Newman House, 200 St Georges Terrace, PERTH in the State of Western Australia (“**Gold Estates**”).

**Recitals:**

- A. Gold Estates owns the land described in Item 1 on the **Schedule** hereto (“**the Deposited Plan**”).
- B. Gold Estates is subdividing part of the Deposited Plan (“**Subdivision**”) and has lodged the Deposited Plan with Landgate to effect the creation and registration of new titles the subject of the Subdivision.
- C. In accordance with section 136D of the Transfer of Land Act Gold Estates requires each of the lots referred to in Item 2 of the **Schedule** (“**Encumbered Lots**”) to be encumbered by the restrictive covenants set out in this document, so that the restrictive covenants will be noted against the Encumbered Lots on the Deposited Plan and when separate Certificates of Title issue for the lots the burden and the benefit of each of the restrictive covenants is to be noted on the Certificate of Title of each of the Encumbered Lots.

#### IT IS AGREED

##### 1. RESTRICTIVE COVENANTS

The registered proprietor (which expression includes the transferees, assigns and successors of the registered proprietor) covenants it will:

- 1.1 NOT construct, erect, externally renovate or install or permit to be constructed, erected, externally renovated or installed on the Encumbered Lots against which these restrictive covenants are registered (“**Property**”):
  - (a) any structure or appendage (including but not limited to dwellings, ‘granny flats’, garages, outbuildings, swimming pools, tennis courts) on the Property without:
    - (i) prior to commencement of construction, obtaining the approval of the Eden Green Estate Project Manager from time to time (being currently Richard Noble & Company) (“**Project Manager**”) to plans and specifications showing the nature, location, materials and height of the proposed structure or appendage (as submitted to the Project Manager by the registered proprietor); and

- (ii) such approved plans and specifications being submitted to the City of Cockburn for building approval;
  - (b) a private single dwelling house (“**Residence**”) with a total floor area (inclusive of external walls and alfresco areas, but exclusive of carports, garages, verandahs, porches and other unenclosed areas) of less than 180 square metres;
  - (c) a Residence, garage or carport with a roof pitch of less than 24° or, in the case of a curved roof, a roof with an equivalent roof height at its highest point, of less than a roof with a pitch of not less than 24° at its highest point; or
  - (d) a Residence that does not incorporate a double, side-by-side carport or garage comprised of the same materials as the residence.
- 1.2 NOT alter the general level of the site or allow the finished site level to be raised by more than 0.3 metres unless written consent from the Project Manager has first been obtained.
- 1.3 NOT setback the construction of any improvements on the Encumbered Lots other than in accordance with the following:
- (a) Front Setback – in accordance with the requirements of the Residential Design Codes 2002;
  - (b) Rear Setback – in accordance with the requirements of the Residential Design Codes 2002;
  - (c) Side Setback – as per the requirements of the Residential Design Codes 2002, except that first floor parapets are restricted to a maximum of one-third the length of the boundary; and
  - (d) Secondary Street Setback – minimum setback of 1.5 metres.
- 1.4 NOT allow the front elevation of the Residence constructed on an Encumbered Lot to be in any orientation/roadway other than:
- (a) in the case of lots 19 – 32 (inclusive) and 43 – 49 (inclusive), facing Moonah Way;
  - (b) in the case of lot 33 and lot 42, facing Moonah Way or Staaten Street; and
  - (c) in the case of lots 34 – 41 (inclusive), facing Staaten Street.
- 1.5 NOT allow the postal address of the Property to be:
- (a) in the case of lots 19 – 32 (inclusive) and 43 – 49 (inclusive), on any street other than Moonah Way;
  - (b) in the case of lot 33 and lot 42, on any street other than Moonah Way or Staaten Street; and
  - (c) in the case of lots 34 – 41 (inclusive), on any street other than Staaten Street.
- 1.6 NOT complete construction of the Residence more than eighteen (18) months from the date of approval from the Project Manager, pursuant to sub-clause 1.1(a)(i) above, unless written consent from the Project Manager has first been obtained.

- 1.7 NOT construct, erect, externally renovate or install or permit to be constructed, erected, externally renovated or installed on the Property:
- (a) a Residence or any alteration, or addition to a Residence using:
    - (i) external wall materials which are not either predominantly concrete, clay bricks, stone, limestone or other similar materials finished in face brickwork or render;
    - (ii) more than 50% of any wall materials comprising mini-orb, weatherboard, timber or other similar materials of any one elevation; or
    - (iii) roof materials, which are not concrete or clay tiles, zincalume or colourbond metal;
  - (b) a carport or garage which, if not located under the main roof of the Residence:
    - (i) is not made of the same materials as the Residence; or
    - (ii) in the opinion of Gold Estates, 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;
  - (c) a Residence, unless a driveway to the garage/carport on the Property and crossover is constructed and completed prior to occupation of the Residence;
  - (d) a Residence, unless all side and rear boundary fencing is constructed and completed prior to occupation of the Residence;
  - (e) a crossover or driveway which is wider than six (6) metres, is less than 0.6 metres from any side boundary of the Property and/or is not constructed of brick paving, liquid limestone, limestone block or only exposed aggregate concrete;
  - (f) a pathway which is not constructed of brick paving, liquid limestone, limestone block or only exposed aggregate concrete;
  - (g) subject as herein after provided, any fence or gate that is not comprised of colourbond on both sides and rear with evergreen metal posts and domain coloured metal sheet infill;
  - (h) an air-conditioner or evaporative cooler, unless:
    - (i) contained wholly within the Residence; or
    - (ii) within the roof space between the ceilings of the Residence and the underside of the roof of the Residence; or
    - (iii) where not adhering to (i) or (ii), is:
      - (A) screened from public view from the street at the front of the Residence and areas of public open space;
      - (B) positioned to minimise noise impact to neighbouring residences; and
      - (C) if installed on the roof, installed below the ridge line of the roof and of similar colour to the roof;

- (i) a solar hot water heater unless it is screened from public view, fits the roof profile, is not elevated at an angle to the roof profile and otherwise matches or complements the Residence; or
  - (j) a clothesline or rainwater tank except in accordance with the manufacturer's instructions and if screened from public view.
- 1.8 NOT construct, erect or install or permit to be constructed, erected or installed on the Property a television and/or radio antennae or satellite dish unless such television and/or radio antennae or satellite dish is not visible from any street at the front of the Residence and areas of public open space.
- 1.9 NOT allow vehicle access to the Property to be:
- (a) in the case of lots 19 – 32 (inclusive) and 43 – 49 (inclusive), from any other direction other than from Moonah Way;
  - (b) in the case of lot 33 and lot 42, from any other direction other than from Moonah Way or Staaten Street; and
  - (c) in the case of lots 34 – 41 (inclusive), from any other direction other than from Staaten Street.
- 1.10 NOT construct any garage or carport on the Property at an orientation:
- (a) in the case of lots 19 – 32 (inclusive) and 43 – 49 (inclusive), other than towards Moonah Way;
  - (b) in the case of lot 33 and lot 42, other than towards Moonah Way or Staaten Street; and
  - (c) in the case of lots 34 – 41 (inclusive), other than towards Staaten Street.
- 1.11 NOT park, keep or store or permit to be parked, kept or stored on the Property or on the road or on any other Property near or next to the Property, any commercial vehicles (being vehicles which have an aggregate weight greater than 3.5 tonnes or a height greater than 2.0 metres), caravans, trailers, mobile homes, boats or any other mobile machinery unless:
- (a) the above are housed or contained wholly within a carport or garage on the Property or are otherwise screened from public view; and
  - (b) in the case of commercial vehicles, the prior approval of the City of Cockburn has been obtained.
- 1.12 NOT conduct or permit to be conducted any repairs or restorations of any motor vehicle, boat, trailer, aircraft or any other vehicle on the Property other than wholly within a carport/garage on the Property, or any part thereof.
- 1.13 where retaining walls or fences have been erected on any of the boundaries of the Property by Gold Estates, NOT:
- (a) alter or remove any or the retaining walls or fences;
  - (b) allow or permit the retaining walls or fences to fall into a state of disrepair; or
  - (c) repair or renew such retaining walls or fences except in the same style and colour as the existing retaining walls and fences,
- unless written consent from the Project Manager has first been obtained.

- 1.14 NOT accumulate or keep or permit to accumulate or keep rubbish, trash, garbage or other waste material whatsoever on the Property except in appropriate permanent or temporary containers specially constructed for that purpose and placed in appropriate areas screened from view.
- 1.15 NOT erect or display or cause to be erected or displayed on the Property any sign, hoarding or advertising of any description whatsoever other than:
- (a) a sign erected by a builder of the Residence in accordance with the Builders Registration Act 1939 (WA) during the period of construction of the Residence; or
  - (b) a "FOR SALE" or "FOR LEASE" sign.
- 1.16 NOT use the completed Residence for display purposes unless approved by the City of Cockburn.
- 1.17 NOT raise, breed or keep or permit to be raised, kept or bred any animals, on the Property, other than domestic pets.
- 1.18 NOT permit any form of construction on the Property, (including patios, garages and other outbuildings) other than where the total area of all construction on the Property is in accordance with the requirements of the Residential Design Codes 2002.
- 1.19 NOT permit or allow all garden areas on the Property within public view:
- (a) not to be landscaped within three (3) months of occupation of the Residence; or
  - (b) to be poorly maintained or fall into a state of disrepair.
- 1.20 NOT breach or cause to be breached the Eden Green Stage 1 Development Conditions and Building Guidelines relating to the Property ("**Guidelines**") which have been supplied to the registered proprietor and which any successive registered proprietor acknowledges having received (provided that, if there is any inconsistency between the Guidelines and the terms of this document, the terms of this document shall prevail).

## **2. TERM OF RESTRICTIVE COVENANTS**

The covenants herein contained shall operate and be enforceable until 1 February 2017, when such covenants will cease to have any further effect.

## **3. BURDEN OF RESTRICTIVE COVENANTS**

Gold Estates intends that the burden of the restrictive covenants is to:

- (a) run with the Property for the benefit of each and every other registered proprietor of the Encumbered Lots on the Deposited Plan; and
- (b) be enforceable against the registered proprietor of each of the Encumbered Lots on the Deposited Plan by Gold Estates and every subsequent registered proprietor of each and every Encumbered Lot.



## SCHEDULE

- Item 1:** All of that land in Deposited Plan 55719.
- Item 2:** Lots numbered 19 – 49 (inclusive) on the Deposited Plan.

**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	Corrs Chambers Westgarth
ADDRESS	Level 15 Woodside Plaza 240 St George's Terrace PERTH WA 6000
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FAX No.	(08) 9460 1667
REFERENCE No.	AHC/NM/GOLD2220-1006980 Stg.1 P/4318246/3
ISSUING BOX No.	95J

PREPARED BY	Corrs Chambers Westgarth
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REFERENCE No.	AHC/NM/GOLD-1006980 Stg.1 P/4318246/3
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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 Clerk
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