

FORM B4

Form Approval  
No.B2641

**K714027 RC**

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REG \$ 88.00

## SECTION 136D DEED OF RESTRICTIVE COVENANTS

LODGED BY IRDI LEGAL

ADDRESS 248 OXFORD STREET  
LEEDERVILLE WA 6007

PHONE No. 9443 2544

FAX No. 9444 3808

REFERENCE No. RJ:S20086977  
(122711)

ISSUING BOX No. 243V

PREPARED BY IRDI LEGAL

ADDRESS

PHONE No. FAX No.

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

3/3

TITLES, LEASES, DECLARATIONS, ETC LODGED HERewith

- |                |                |
|----------------|----------------|
| 1. <i>Deed</i> | Received items |
| 2.             | Nos.           |
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| 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.



depend upon availability and may require a fee to be paid in the normal manner. The developers intend with this innovation to be able to provide all the benefits of high speed internet and pay TV while avoiding unsightly outside satellite dishes and aerials.

Please note that connection to the FTTH reticulation must be done by a **licensed contractor**.

The developers will endeavour to ensure that the FTTH system is developed and continued but makes no warranty or promise concerning its continued operation.

#### **COVENANT**

The preceding building guidelines shall be for the benefit of every other lot in the plan of subdivision referred to herein and the burden of the guidelines shall be attached to the property.

Any limestone retaining or other walls provided by the Seller may NOT BE ALTERED IN ANY WAY except for the construction of a parapet wall as approved by City of Armadale.

#### **AIR CONDITIONING OR COOLING UNIT/SOLAR HOT WATER UNITS**

Air conditioning or cooling units must be of a similar colour to the roof, located on the rear elevation or the rear half of a side elevation and not protrude above a ridgeline by more than 300mm. Solar hot water units must be integrated with and match the roof profile and pitch of the roof. Neither facility can be placed on a front elevation of the residence.

#### **LANDSCAPING**

All garden areas within public view to be completely landscaped within six months of occupation of the dwelling. Waterwise garden practices are encouraged.

#### **STREET TREES**

The developers will provide a street tree to enhance the streetscape of the suburb. These trees are not to be removed.

#### **SIGNS**

Buyers are NOT to erect, display or allow any sign, hoarding or advertising other than;

- (d) a sign erected by a builder of the residence in accordance with the Builders Registration Act during the period of construction of the residence; or
- (e) a "FOR SALE" sign which may be erected after completion and occupation of a residence on the land; or
- (f) a "FOR SALE" sign which may be erected at the expiration of a period of five years from the date of purchase from the developer.

#### **WASHING LINES/RUBBISH BINS**

All washing lines and rubbish bins must be screened from the street and public places.

#### **DISPLAY HOMES**

The completed residence shall not be used for display purposes.

#### **COMMERCIAL VEHICLES**

Commercial vehicles are not to be parked or stored on or near any property.

#### **RECREATIONAL VEHICLES, BOATS ETC**

All recreational vehicles including caravans, boats, etc must not be parked or stored on a property unless contained within a garage or screened from public view (both street and park areas).

#### **TELECOMMUNICATION AERIALS, ANTENNAE AND DISHES**

The developer has entered into an agreement with Telstra for a FTTH (Fibre to the Home) system to be installed in the estate. It is not considered necessary to erect outside TV antennae or satellite dishes which are prohibited under the restrictive covenants. The free to air stations can be accessed free of costs after payment of an initial connection fee, however, the system is designed to accommodate future high speed internet and pay TV etc. Provision of these services will

**Roofing:** Clay or concrete tiles or colorbond metal roofing in accordance with the City of Armadale requirements are acceptable. A minimum 24° pitch, or in the case of curved or skillion roofs a minimum 12° pitch are to be used on all dwellings and garages. Flat roofs are not permitted except for verandahs. All windows and glazed areas must have eaves on the most northerly, easterly and westerly elevations.

**Driveways:** Each dwelling is to be provided with a driveway and crossover to be completed at the same time as the residence and before occupation. Maximum width of crossover shall be 6 metres and driveways must be no closer than 0.6 metres to any side boundary. All driveways and crossovers must comprise brick paving or limestone look concrete paving. Grey or painted concrete is not permitted.

## **SETBACKS**

As per the Residential Design Codes and City of Armadale policies and in compliance with Detailed Area Plans (DAP's) where applicable.

## **FACADES**

The façades to public domains (eg roads, public open space areas and the like) must be attractive to achieve home design excellence.

## **FENCING**

All side and rear boundary fencing must be fully installed on completion of construction of the dwelling or prior to completion.

No fencing is permitted forward of the building line unless it is part of a courtyard that adjoins a residence, is not less than 1500mm in height and is constructed of masonry or rendered masonry to match the residence or is constructed of open style pool fence materials.

Fencing to boundaries 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 developer may do so and reclaim the cost from the lot owner.

Side boundary fencing must not be less than 1800mm in height and consist of capped Hardifence painted in "wheat" colour on both sides or masonry or rendered masonry to match the residence. Secondary street boundary (being a side boundary which faces a street) fencing must consist of capped hardifence painted in "wheat" colour on both sides, masonry or rendered masonry to match the residence or open style pool fencing.

## **OUTBUILDINGS**

Outbuildings are permitted and shall be constructed of the same materials as the residence except that storage outbuildings of 10m<sup>2</sup> or less may be constructed of Colorbond and must not protrude more than 300mm above a fence line. No storage outbuildings are permitted on lots less than 500 square metres in area or within yards abutting public open space.

## **SITE LEVELS**

The general level of the site may not be altered except that the finished level can be raised by a maximum of 0.3 metres.

**Annexure "B"**  
**HERON PARK**  
**Development Conditions and Building Guidelines**

**INTRODUCTION**

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

**SUSTAINABILITY**

The Seller seeks to encourage sustainable housing and land development and the Buyer is encouraged to use energy efficient appliances and practices in design and construction of the home, Waterwise garden principles in the construction of the landscape areas and Waterwise appliances within the dwelling.

**BUILDING PLAN APPROVAL**

Two sets of elevation drawings, site and floor plans must be submitted to the Heron Park Project Managers (Satterley Property Group, 18 Bowman Street, South Perth) prior to the plans being submitted to the City of Armadale under the normal building approval procedure.

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

**DEVELOPMENT**

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

**DWELLING**

The minimum dwelling size is 180m<sup>2</sup> for lots of 500 square metres or larger and 140m<sup>2</sup> for lots of less than 500 square metres. The minimum floor area is the area of the dwelling excluding porches, carports, garages, verandahs, alfresco areas etc. Transported or transportable homes are not permitted. A one piece concrete slab construction is required. Lots served by a rear laneway and parkside lots shall comply with relevant Detailed Area Plans requirements.

**GARAGES**

All dwellings constructed must incorporate double, side by side garages, comprised of the same materials as the residence. Where rear laneways are provided, garages can only be accessed from the laneway and in accordance with Detailed Area Plan requirements.

**STORAGE**

Storage outbuildings (sheds, free-standing stores etc) of up to 10 m<sup>2</sup> are permitted but must not protrude more than 300mm above any fence line and may be constructed with colorbond materials or the same materials as the residence. Storage outbuildings with an area greater than 10m<sup>2</sup> must be constructed in the same materials as the residence. In the case of dwellings on lots less than 500 square metres in area, all storage must be contained under the main roof of the residence. No storage buildings are permitted in yard areas abutting public open space.

**MATERIALS:**

**Walls:** External walls must be constructed with concrete, clay bricks, limestone or similar material. Quality new materials only are to be used.

- r) Any outbuilding or shed on or within any yard on part of the land which abuts any public open space.
- 3. NOT to 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 (being vehicles which have an aggregate weight greater than 3.5 tonnes or a height greater than 2.0 metres).
- 4. NOT to park caravans, trailers, boats or any other similar recreational machinery ("vehicles") on the land or on the road or on any other land near to or next to the land unless the vehicles are parked wholly in accordance with the requirements of the City of Armadale and are housed in a screened location behind the front building setback line.
- 5. 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 of the retaining walls or fences except for the construction of a parapet wall in accordance with an approval from City of Armadale, 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 or fences.
- 6. 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 300 millimetres.
- 7. NOT to use or open or allow to be used or opened, any residence erected on the land, for display purposes.
- 8. 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) a sign erected by a builder of the residence in accordance with the Builders Registration Act during the period of construction of the residence; or
  - (b) a "FOR SALE" sign which may be erected after completion and occupation of a residence on the land; or
  - (c) a "FOR SALE" sign which may be erected at the expiration of a period of five years from the date of registration of the Transfer of Land relating to the purchase from the Transferor, if a residence has not been completed at that time.

The Transferee and the registered proprietor of the land from time to time, must not prohibit and hereby gives an irrevocable authority to the Transferor and its servants and agents to enter the land for the purposes of removing any sign erected in breach of this covenant.

- 9. NOT to breach or cause to be breached the **Heron Park Development Conditions and Building Guidelines** relating to the land a copy of which is attached and marked Annexure "B".
- 10. For the purposes of these restrictive covenants, "Detailed Area Plan" means the detailed area plan lodged with City of Armadale and Western Australian Planning Commission ("WAPC") relating to the subdivision and development of the Transferor's land of which the land forms part and which is part of the subdivision approval granted by WAPC to the Transferor.

- ii) constructed of masonry or rendered masonry to match the residence; or
- iii) constructed of open style pool fence materials.
- i) 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.
- j) A letterbox which is not located adjacent to the driveway on the land, is not clearly numbered or does not match or complement the residence.
- k) An airconditioner or evaporative cooler, unless:-
  - i) contained wholly within the residence; or
  - ii) it is located on a rear elevation and is installed below the ridge line of the roof and has a maximum protrusion above the ridge line of not more than 300mm; or
  - iii) it is located on the rear half of a side elevation of the residence; or
  - iv) contained within the roof space between the ceilings of the residence and the underside of the roof of the residence or on a side or rear wall of the residence

AND:

  - A. it is not located on the front elevation of the residence; and
  - B. is of similar colour to the roof of the residence.
- l) A solar hot water heater, unless it is located on a side or rear elevation of the residence, fits the roof profile and is not elevated at an angle to the roof profile and otherwise matches or complements the residence.
- m) 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 street at the front of the residence.
- n) (While the Fibre Optic System provided with the land is operative and available) a television and radio antenna and satellite dish unless contained wholly within the residence or within the roof space between the ceiling and roof of the residence or, in the case of a satellite dish is less than 600mm in diameter, not located on the front elevation or above the roof line of the residence.
- o) An outbuilding or shed of up to 10 square metres in floor area unless constructed of the same materials as the residence or of colorbond and it does not protrude more than 300mm above the fence line and is otherwise in compliance with the building requirements of City of Armadale.
- p) Any outbuilding or shed greater than 10 square metres in floor area unless constructed of the same materials as the residence.
- q) (If the land has an area of less than 500 square metres) a residence which does not provide for all storage areas under the main roof of the residence.

- ii) using roof materials which are not concrete or clay tiles, slate or colourbond metal.
  - iii) using roof materials known as zincalume or other reflective material.
  - iv) which is transported or is a transportable residence.
- b) A garage which, if not located under the main roof of the residence, is not constructed in the same materials as the residence.
- c) A residence, unless a driveway and the crossover between the road and the parking area on the land are constructed and completed prior to occupation of the residence.
- d) A driveway which is:
  - i) wider than 6 metres at the street boundary of the lot;
  - ii) less than 0.6 metres from any side boundary of the lot;
  - iii) which is not constructed of brick or block paving or limestone look concrete;
  - iv) constructed of grey or painted concrete.
- e) A residence, unless all ground areas which are visible from the street or any public open space adjoining or near the land ("visible areas") is properly landscaped within 6 months after completion of the residence. "Properly landscaped" means that all visible areas must be cleared and grassed, planted or otherwise covered with a beautifying surface.
- f) Subject to paragraphs (g) and (i), any side boundary fence which adjoins another lot unless it is:-
  - i) not less than 1800mm in height; and
  - ii) constructed of materials known as Hardifence or similar, and is capped and painted or pre-coloured on both sides in a "wheat" colour.
- g) Subject to paragraph (i) any fence on any side boundary which faces on to a street unless it is:
  - (i) not less than 1800mm in height;
  - (ii) constructed of materials known as Hardifence or similar, and is capped and painted or pre-coloured on both sides in a "wheat" colour; or
  - (iii) constructed of masonry or rendered masonry to match the residence; or
  - a. constructed of open style pool fence materials.
- h) Any other fence (not being a side fence) which extends forward of the building set back line unless it is part of a courtyard attached to the residence and is:-
  - i) not less than 1500 mm in height; or

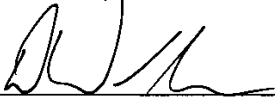
**Annexure "A"**  
**HERON PARK STAGE 4B**  
**DEPOSITED PLAN 59400**  
**Restrictive Covenants**

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"):-
  - a) A residence which is not a permanent non-transportable private residence ("a residence").
  - b) (If the land has an area of 500 square metres or more) a residence with a total floor area of less than 180 square metres inclusive of external walls but exclusive of carports, garages, verandahs, alfresco areas and other unenclosed areas.
  - c) (If the land has an area of less than 500 square metres) a residence with a total floor area of less than 140 square metres inclusive of external walls but exclusive of carports, garages, verandahs, alfresco areas and other unenclosed areas.
  - d) A residence which does not comprise as its floor, a one piece concrete slab construction.
  - e) A residence with a flat roof (excluding any part of the roof which covers verandah areas).
  - f) Subject to clause 1(g), a residence, where the roof is pitched, and the roof pitch is less than 24° (excluding any part of the roof which covers verandah areas).
  - g) A residence which has a skillion roof or a curved roof and the roof pitch is less than 12° (excluding any part of the roof which covers verandah areas).
  - h) A residence which does not contain a garage or carport making provision for parking of at least two motor vehicles side by side.
  - i) A residence which has access through a rear laneway and provides for vehicular access other than by that laneway.
  - j) A residence which does not include eaves to windows and glazed areas on the most Northerly, Easterly and Westerly elevations.
  - k) A residence or any other improvements constructed on the land which does not comply with the Detailed Area Plan.
2. **NOT TO CONSTRUCT**, erect or install or permit to be constructed, erected or installed on the land:
  - a) A residence or any alteration or addition to a residence:-
    - i) using wall materials which are not either predominantly concrete, clay bricks, stone, rammed earth, rammed limestone, limestone, composite board or weatherboard with a minimum thickness of 9mm or other similar material finished in face brickwork, minorb, composite board or render;

EXECUTED as a deed.

EXECUTED by **HERON PARK WA PTY LTD** (ACN 115 882 329) in accordance with section 127 of the Corporations Act

  
\_\_\_\_\_  
Signature of Director

**David Conrad Williams**  
\_\_\_\_\_  
Print name of Director

  
\_\_\_\_\_  
Signature of Director/Secretary

**Anthony Robert Carr**  
\_\_\_\_\_  
Print name of Director/Secretary

### CONSENT OF MORTGAGEE


**SATTERLEY FORRESTDALE PTY LTD** (ACN 115 882 338) being the mortgagee hereby consents to this deed of restrictive covenants and to the registration of Deposited Plan 59400.

DATED the 4 day of september 2008

EXECUTED by **SATTERLEY FORRESTDALE PTY LTD** (ACN 115 882 338) in accordance with section 127 of the Corporations Act

  
\_\_\_\_\_  
Signature of Director

**Nigel Frank Satterley**  
\_\_\_\_\_  
Print name of Director

  
\_\_\_\_\_  
Signature of Director/Secretary

**Anthony Robert Carr**  
\_\_\_\_\_  
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 on the day eight (8) years from the date of first issue of the Certificates of Title for the lots on the Plan.

### 5. DEFINITIONS

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

## SCHEDULE

#### **The Land:**

Lot 9503 on Deposited Plan 59398 and being the whole of the land comprised in Certificate of Title Volume 2688 Folio 976.

#### **Encumbrances:**

- (i) Mortgage J597857 to Satterley Forrestdale Pty Ltd.
- (ii) Easement Burden created under Section 167 Planning and Development Act for sewerage purposes to Water Corporation – see Deposited Plan 59398 as created on Deposited Plan 58340.
- (iii) K183234 – Easement to Electricity Networks Corporation – see Deposited Plan 58340.

THIS DEED is made the 4 day of September 2008

**BY:**

**HERON PARK WA PTY LTD** (ACN 115 882 329) of care of Gillon & Associates, Suite 1, 18 Stirling Highway, Nedlands ("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 intends to subdivide 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 59400 ("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 lot 9504 ("the Excluded Lot") 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 Lot.

**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 Lot) 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 Lot).

**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 Lot); 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 Lot).

**HERON PARK WA PTY LTD**

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**SECTION 136D DEED OF RESTRICTIVE COVENANTS  
HERON PARK STAGE 4C  
DEPOSITED PLAN 59400**

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**IRDI LEGAL**  
248 Oxford Street  
LEEDERVILLE WA 6007

Telephone: 9443 2544  
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(122711)