

ANNEXURE H – RESTRICTIVE COVENANT (AS PROPOSED)

OPERATIVE PART

1. Pursuant to section 136D of the *Transfer of Land Act 1893* the Developer hereby creates restrictive covenants on all the Lots, unless otherwise specified, in the following terms:

A registered proprietor shall not:

Compliance

- (a) Develop a Lot or construct upon a Lot a dwelling unless such development or construction is in compliance with the requirements of the Residential Design Codes, the Town Planning Scheme, the approved Detailed Area Plan (as may apply) and all relevant by-laws and policies of the relevant Shire or council;

Minimum Street Front Elevation

- (b) Construct a dwelling with a street front elevation width of less than seventy-five percent (75%) of the street frontage width of the Lot. For the purpose of a corner lot, the street frontage relates to the primary street frontage only and for the purpose of measuring the street frontage width, any truncation is ignored and the measurement is taken along the side of the Lot abutting the primary street;

External Finish

- (c) Construct a dwelling with external wall materials not primarily made of stone, face brick or painted or coloured cement render;
- (d) Construct a dwelling without incorporating either a portico, gable or feature wall into the street front elevation of the dwelling;
- (e) Construct a dwelling unless each street facing facade is made up of at least two (2) different colours or textures with each such colour or texture (as applicable) making up at least ten percent (10%) of the total surface area of the relevant facade. For the purpose of this clause the term "facade" does not include the roof, gutters, downpipes, windows or doors;
- (f) Construct a dwelling with roofing materials other than concrete or clay tiles or colourbond sheeting (Zincalume is not permitted) and with a pitch of less than twenty-four degrees (24°);

Garage

- (g) Construct a dwelling without a garage capable of housing at least two (2) motor vehicles. Such garage shall not be constructed other than in a manner which compliments the dwelling in respect to roof pitch, materials used, design, colour and external appearance;
- (h) Construct a garage without a roller or tilt type door to shield vehicles parked in the garage from the street;
- (i) Construct out buildings greater than 20m² and/or higher than 3m unless they are constructed from materials that compliment the dwelling in appearance;

Driveways

- (j) Construct a dwelling, unless a driveway and cross-over between the road and the parking area on the Lot are constructed and completed at the same time as or prior to occupation of the dwelling. Any driveway or crossover constructed shall not be less than three metres (3m) wide and no greater than six metres (6m) wide or constructed from anything other than brick pavers, concrete or similar; concrete must be coloured and not natural colour.

Solar Heaters

- (k) Install solar heaters and air conditioners on that part of a roof facing a street and the solar heaters and air conditioners shall not be painted (or consist of coloured materials) of any colours that do not match the roof colour;

Commercial Vehicles

- (l) Park commercial vehicles including trucks, buses and tractors at the dwelling or on a verge abutting the dwelling unless screened from public view at all times or unless parked during the normal course of business by a visiting tradesman;

Repairs

- (m) Repair, restore or maintain any motor vehicle, motor cycle, boat, trailer or any other vehicle unless carried out behind the building line and screened from public view at all times;

Fences

- (n) Construct side and rear boundary fencing using anything other than "River Sand" or similar coloured "Colourbond" fence panels or sheets with "Slate Grey" or similar coloured capping, posts and rails to a maximum height of one and eight tenths of a metre (1.8m) measured from the ground level up;
- (o) Construct fencing between the dwelling and the side boundary of the Lot or forward of the dwelling along the side and front boundaries, that is visible from the street, from any materials other than the materials of the dwelling, which match the appearance of the dwelling;
- (p) Complete construction of fencing to the dwelling any later than twenty-one (21) days from either the date of builder's handover or the date of occupation of the dwelling, whichever occurs first; or
- (q) Construct a dwelling unless the area between the front building line and the kerb is reticulated and landscaped within sixty (60) days of occupancy.

For Sale Signs

- (r) In relation only to Lots upon which a dwelling is yet to be constructed, from the date that a separate certificate of title for the Lot issues and for a period of two (2) years after that date, display or erect thereon any "For Sale" sign. For the purposes of clarity, this clause is not intended to prevent the registered proprietor of the Lot from selling or otherwise disposing of the Lot;
2. The burden of the covenants and restrictions contained in this deed shall run and bind each of the Lots and bind the registered proprietors and their successors in title, transferees and assigns and shall endure for the benefit and be enforceable by each and every other registered proprietor of the Lots, and their successors in title, transferees and assigns.
 3. When at any time two or more persons or corporations own a joint interest in any of the Lots, their liability hereunder will be joint and several. Any person who becomes, is or was a registered proprietor of any of the Lots will be liable for any breach of the restrictive covenant affecting the Lot which occurs while that person or corporation was the (or one of the) registered proprietor(s) of that Lot.
 4. A person who becomes a registered proprietor of any of the Lots, may whilst that person is the registered proprietor, enforce or take action in respect of a breach of the restrictive covenants created by this deed notwithstanding the breach complained of, in respect of any of the Lots, may have occurred prior to the person seeking to enforce the breach becoming the registered proprietor of the Lot.
 5. The restrictive covenants outlined in this deed shall cease to exist 5 years after the registration of the Subdivision Plan.
 6. If any part of this deed is void or voidable, then that part shall be severed from this deed so that all parts that are not void or voidable remain in full force and effect and are unaffected by that severance.
 7. Headings and sub-headings are inserted for convenience of reference only and shall not affect the interpretation of this deed.
 8. In this deed "construct" shall mean to construct, commence to construct, permit or suffer to be constructed or commenced to be constructed.