

Section 129BA Deed of Restrictive Covenant

Belvedere Hills Estate: Stage 17B

mdk | mony de kerloy
Barristers and Solicitors

129 Royal Street
East Perth WA 6004
PO Box 6141
East Perth WA 6892

T: (08) 9221 5326
F: (08) 9221 5402
E: mdk@bekkers.com.au
Ref: 80388 AJC
00085080.DOC

THIS DEED IS MADE THE

DAY OF

2009

BETWEEN:

HOCKING LAND COMPANY (ACN 084 881 309) and **WESTEND ASSET PTY LTD (ACN 106 132 790)** both of PO Box 1130, Canning Bridge in the State of Western Australia and **GUCCE HOLDINGS PTY LTD (ACN 099 191 714)** of 48 Wickham Street, East Perth in the State of Western Australia (collectively "the Developer")

and

CITY OF WANNEROO of 23 Dundobar Road, Wanneroo in the State of Western Australia ("the City").

RECITALS:

- A. The Developer is the registered proprietor of an estate in fee simple of the whole of the land described as the following:
- (i) Lot 9021 on Deposited Plan 60383 being the whole of the land contained in Certificate of Title Volume _____ Folio _____;
 - (ii) Lot 9022 on Deposited Plan 60384 being the whole of the land contained in Certificate of Title Volume _____ Folio _____;
 - (iii) Lot 9023 on Deposited Plan 60384 being the whole of the land contained in Certificate of Title Volume _____ Folio _____;
 - (iv) Lot 9024 on Deposited Plan 60384 being the whole of the land contained in Certificate of Title Volume _____ Folio _____; and
 - (v) Lot 9025 on Deposited Plan 60384 being the whole of the land contained in Certificate of Title Volume _____ Folio _____;
- (collectively "the Land").
- B. The Land is situated within the district of the City.
- C. Lots 239 to 252 (inclusive) and lots 359 to 361 (inclusive) on Deposited Plan 60385 ("the Burdened Land") form part of the Land.
- D. The Developer has sought from the Western Australian Planning Commission ("the WAPC") approval to sub-divide the Land of which the Burdened Land forms part in WAPC approval no. 132488.

- E. In accordance with the conditions of WAPC approval no. 132488, the Developer is required by the City to create a restrictive covenant on the Burdened Land to restrict vehicular access from the Burdened Land to the road abutting the Burdened Land ("the Road").

OPERATIVE PART:

1. Pursuant to section 129BA of the *Transfer of Land Act* 1893, the Developer hereby covenants with the City to create a restrictive covenant on the Burdened Land with the effect that a registered proprietor shall not use or permit the use of the Burdened Land for vehicular access from the Burdened Land to the Road between:
 - (a) the point marked 'A' on the boundary of lot 361 on Deposited Plan 60385 and the point marked 'B' on the boundary of lot 359 on Deposited Plan 60385;
 - (b) the point marked 'C' on the boundary of lot 239 on Deposited Plan 60385 and the point marked 'D' on the boundary of lot 241 on Deposited Plan 60385;
 - (c) the point marked 'E' on the boundary of lot 242 on Deposited Plan 60385 and the point marked 'F' on the boundary of lot 246 on Deposited Plan 60385; and
 - (d) the point marked 'G' on the boundary of lot 247 on Deposited Plan 60385 and the point marked 'H' on the boundary of lot 252 on Deposited Plan 60385.
2. The burden of the covenant contained in clause 1 shall run and bind the Burdened Land and bind the registered proprietors and their successors in title, transferees and assigns and is for the benefit of the City.
3. The Developer must pay for the costs of preparation, execution and stamping of this deed, including the stamp duty assessed hereon.

EXECUTED AS A DEED

Executed by)
HOCKING LAND COMPANY PTY LTD)
(ACN 084 881 309))
in accordance with s 127(1) of the)
Corporations Act 2001 (Cth):)

Signature of Sole Director and Sole Secretary
ALLEN BRUCE CARATTI
Full Name of Sole Director and Sole Secretary (Print)

Executed by)
WESTEND ASSET PTY LTD)
(ACN 106 132 790))
in accordance with s 127(1) of the)
Corporations Act 2001 (Cth):)

Signature of Sole Director and Sole Secretary
JOSEPHINE LYNETTE BAZZO
Full Name of Sole Director and Sole Secretary (Print)

Executed by)
GUCCE HOLDINGS PTY LTD)
(ACN 099 191 714))
in accordance with s 127(1) of the)
Corporations Act 2001 (Cth):)

Signature of Sole Director and Sole Secretary
TINA MICHELLE BAZZO
Full Name of Sole Director and Sole Secretary (Print)

The Common Seal of)
THE CITY OF WANNEROO)
was hereunto affixed by authority)
of a resolution of the Council)
in the presence of:)

Mayor

Name of Mayor (print)

Chief Executive Officer

Name of Chief Executive Officer (print)

MORTGAGEE'S CONSENT


SUNCORP METWAY LIMITED (ACN 010 831 722) being a mortgagee hereby consents to this deed and the grant of the restrictive covenants contained herein:

Executed by
SUNCORP METWAY LIMITED
(ACN 010 831 722)
by that party's attorney pursuant to Power of
Attorney E763500 dated 15 November 1991 who
states that no notice of revocation of the Power of
Attorney has been received in the presence of:

)
)
)
)
)
)
)

Level 1 Attorney
ROBERT REES

Full Name of Attorney (Print)



Witness
Neal Bruce Ferrick

Full Name of Witness (Print)
15. William Street Perth

Address of Witness
Bank Officer

Occupation