

Section 129BA Deed of Restrictive Covenant

Belvedere Hills Estate: Stage 17A

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THIS DEED IS MADE THE

DAY OF

2008

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 (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 9007 on Deposited Plan 57016 being the whole of the land contained in Certificate of Title Volume ____ Folio ____;
 - (ii) Lot 9008 on Deposited Plan 57017 being the whole of the land contained in Certificate of Title Volume ____ Folio ____;
 - (iii) Lot 9009 on Deposited Plan 57017 being the whole of the land contained in Certificate of Title Volume ____ Folio ____;
 - (iv) Lot 9010 on Deposited Plan 57017 being the whole of the land contained in Certificate of Title Volume ____ Folio ____; and
 - (v) Lot 2 on Diagram 32723 being the whole of the land contained in Certificate of Title Volume 1 Folio 157A;
- (collectively "the Land").
- B. The Land is situated within the district of the City.
- C. Lots 354 to 358 (inclusive) on Deposited Plan 60384 ("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. 128662 and WAPC approval no. 132483.

- E. In accordance with a condition of WAPC approval no. 128662 and WAPC approval no. 132483, 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 the point marked 'A' on the boundary of lot 358 on Deposited Plan 60384 and the point marked 'B' on the boundary of lot 354 on Deposited Plan 60384;
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.