

**BLANK INSTRUMENT FORM****RESTRICTIVE COVENANTS**

(Note 1)

**MILLBRIDGE PRIVATE ESTATE – THE RIVERS STAGE 5 DP410933  
Deed of Restrictive Covenant  
(pursuant to Section 136D of the Transfer of Land Act)**

**Parties:** **ARDROSS ESTATES (SA) PTY LIMITED** (A.C.N. 007 674 080) of Level 33, QV.1 Building, 250 St George's Terrace, Perth, Western Australia ("**Ardross Estates**")

**Recitals:**

- A. Ardross Estates is the registered proprietor of the Estate.
- B. Ardross Estates is subdividing the Estate and proposes to register plans of subdivision in respect of the Estate to effect the creation and registration of new titles the subject of the Subdivision Plan.
- C. Ardross Estates has procured the preparation of the Subdivision Plan in respect of part of the Estate.
- D. Ardross Estates wishes to register restrictive covenants in respect of the Lots pursuant to Section 136D of the Transfer of Land Act so that those covenants will burden and benefit the Lots.

**Operative Provisions:****1. Definitions**

1.1 The following words have the meanings in this deed unless the contrary intention appears:

**Construct** means construct or erect or commence or cause or allow to be constructed or erected and where the context permits includes paint, render or otherwise finish or cause or allow to be painted, rendered or otherwise finished.

**Design Guidelines** means the MillBridge Private Estate Building Design Guidelines – The Rivers Stage 5 (Lots 1308 to 1317, 1326 to 1330, 1334 to 1351 and 1652 inclusive).

**Estate** means all the land described in Item 1 of the Schedule.

**Lots** means Lots 1308 to 1317, 1326 to 1330, 1334 to 1351 and 1652 (inclusive) shown on and created upon the registration of the Subdivision Plan and **Lot** has a corresponding meaning.

**R-Codes** means the Residential Design Codes of Western Australia.

**Shire** means the Shire of Dardanup.

**Subdivision Plan** means the plan of subdivision of the Estate into residential lots lodged for registration at the Western Australian Land Information Authority (Landgate) and having Deposited Plan number 410933 or any substitute number, and includes any plan or diagram lodged which amends or is in substitution for that plan.

1.2 A reference to a boundary or the area of a Lot is a reference to the boundary or the area of that Lot as shown on the Subdivision Plan.

## 2. Restrictive Covenants

- 2.1 Ardross Estates, pursuant to Section 136D of the Transfer of Land Act, creates the covenants set out in clause 2.2 in respect of the Lots and agrees that the covenants will be registered against the Certificates of Title in respect of each Lot.
- 2.2 The registered proprietor (which expression includes the transferees, assigns and successors of the registered proprietor) covenants it will in the case of all Lots:
- (1) NOT use or permit the Lot to be used other than for the construction and occupation of a permanent non-transportable private single-dwelling residence (**Residence**).
  - (2) NOT breach or permit a breach of the Design Guidelines, a copy of which has been supplied to the registered proprietor and which any successive registered proprietors acknowledges having received (provided that, if there is any inconsistency between the Design Guidelines and the terms of this document, this document shall prevail).
  - (3) NOT construct or permit to be constructed on the Lot any Residence or improvement or alteration or addition unless:
    - (a) all external walls other than glazing or windows or minor features are constructed of double brick, brick veneer, reverse brick veneer, rammed earth, rammed limestone, stonework or painted rendered or colour-rendered masonry, or other materials approved in writing by the registered proprietor either generally or specifically;
    - (b) facades are articulated, with projections and indentations of at least 450mm in the floor plan, mirrored in the roof design (excluding the garage);
    - (c) at least two different approved building materials are used in the primary elevation;
    - (d) at least one pronounced architectural design feature is used in the primary elevation;
    - (e) in the case of Lots 1315, 1328, 1344 and 1345 (being corner Lots), the feature materials used in the primary elevation continue on to the secondary street elevation a minimum of 1.5m, or to the return fence location;
    - (f) all roofs are covered with Colorbond® metal sheeting or similar materials (excluding Zinalume® roof sheeting where the floor area is greater than 10 square metres) of a pitched type are not less than 24° (or other angle approved in writing by Ardross Estates either generally or specifically) for the dominant portion of the roof subject to the provisions of the Design Guidelines allowing for skillion and curved roofs;
    - (g) any skillion roof has a minimum 8 degrees slope and minimum 300mm wall overhang;
    - (h) all parapet walls abutting any Lot boundary are no higher than 3.0 metres above natural ground level and no greater than 9.0 metres in length and have been approved by the Shire;
    - (i) the internal living floor area of the Residence, measured over the external walls (assuming a 230mm external wall thickness), but excluding the area of any porches, garages, carports, eaves, verandahs, pergolas, storerooms, outbuildings, or unenclosed areas, is not less than 155 square metres;
    - (j) a garage or carport capable of accommodating two or more motor vehicles, side by side, fitted with an operable door facing the driveway, is contained under the main roof of the Residence and protrudes no more than 1.5m forward of the main building
    - (k) there is at least one driveway constructed in either red asphalt, reconstituted limestone, exposed aggregate, concrete or similarly earth-shaded material, concrete block paving or clay brick, completed prior to or not later than the date on which the construction of the Residence on the Lot has been practically completed and prior to occupation of it; and
    - (l) there is at least one single crossover constructed using identical material to that as used in the construction of the driveway and constructed to the Shire's specifications, completed prior to or not later than the date on which the construction of the Residence on the Lot has been practically completed and prior to occupation.

- (4) NOT construct or permit to be constructed on the Lot any:
- (a) outbuilding (including any detached garage, workshop, garden shed, storage shed or the like) that is:
    - (i) within 10.0 metres of a road reserve in the case of the Primary Street (as defined in the R-Codes);
    - (ii) within 7.5 metres of a road reserve in the case of a Secondary Street (as defined in the R-Codes), except in the case of Lot 1328, where the outbuilding is located wholly within the permitted area defined in Figure 2 of the Design guidelines;

unless constructed in the same materials, colours and finishes as the Residence;
  - (b) outbuilding (including any detached garage, workshop, garden shed, storage shed or the like) unless constructed using either the same materials, colours and finishes as the main Residence, or Colorbond® or similar materials of a colour that complements the colour of the main Residence;
  - (c) outbuilding, unless the outbuilding complies in all respects with the Shire of Dardanup Town Planning Scheme No. 3 District Scheme, clause 4.12 "Outbuildings in Residential Zones";
  - (d) television or radio aerial, unless the system is no higher than the ridgeline of the main roof;
  - (e) installation of an air-conditioning unit or air cooling unit unless it is matched to the colour of the roof covering and extends no higher than the ridgeline of the roof;
  - (f) installation of a solar hot water unit or grid-connected solar power system, unless the panels are integrated with and matched to the profile and pitch of the roof of the Residence and extends no higher than the ridgeline of the roof; and
  - (g) water tanks (which in any event must not exceed the height of the roof eave of the Residence closest to the tank) or clothes lines visible from any road reserve or public reserve which the Lot abuts.
- (5) NOT construct any fences or walls:
- (a) in the case of Lots 1328 and 1345, along the Secondary Street boundary of the Lot abutting a road reserve, unless using a proprietary brand capped metal fencing system in a colour that is Dulux Colorbond® Harvest® colour, or equivalent, as contemplated in the Design Guidelines; or in accordance with Clause 2.2 (5)(c)(ii) or (iii) as contemplated in the Design Guidelines;
  - (b) in the case of Lots 1315 and 1344, along the boundary of the lot abutting a road reserve, unless using brushwood fencing, or a combination of open fencing and either face brick, face block or blockwork, or pool fence as contemplated in the Design Guidelines;
  - (c) in the case of all Lots, along a common boundary with any other Lot other than using either:
    - (i) a proprietary brand capped metal fencing system in a colour that is Dulux Colorbond® Harvest® colour, or equivalent, where the fence is visible from a road reserve and of a height no less than 1,650mm from the natural ground level at any point, except for the 2 metres section closest to a road reserve, over which it tapers from a height of no less than 1,650mm from the natural ground level down to 900mm from the natural ground level; or
    - (ii) brushwood fencing as contemplated in the Design Guidelines; or
    - (iii) face brick, face block or rendered blockwork being limestone or similar colour where the fence is visible from a road reserve, and of a height of no less than 1,650mm from the natural ground level at any point;
  - (d) in the case of all Lots, forward of the primary street setback, unless in accordance with the R-Codes and with materials and colours complementing the primary elevation, such materials not being pre-finished corrugated metal sheeting; and
  - (e) in the case of all Lots, any retaining walls visible from a street or public reserve unless using limestone blocks or face brick, face block or rendered blockwork similar to the walls of the dwelling;

- (6) NOT construct any gates in fences facing a road, unless:
  - (a) the gates are clad or covered in similar materials to the fence and painted to match the fence; or
  - (b) in the case of brick/blockwork fencing, the gates are clad with a proprietary brand metal fencing system and in a colour that matches the fence; or
  - (c) in the case of brushwood fencing, the gates are clad with a proprietary brand metal fencing system or constructed of timber/metal and in a colour or painted to match the fence.
- (7) NOT take or permit any action to be taken to remove, alter, mark or deface a retaining wall or fence constructed by Ardross Estates on or about any of the boundaries of the Lot and not permit such wall or fence to become damaged or unsafe nor permit any roots or any tree, plant or any building or other thing on the Lot to cause such wall or fence to become structurally unsound, or repair or renew such walls and fences except in the same style and colour as the existing walls and fences, except in the case of Lots 1315 and 1344 for the express purpose of widening the secondary access up to a maximum of 11.0 metres from the immediately adjacent side boundary.
- (8) NOT permit or allow the finished level of the Lot to be raised or lowered by more than 0.5m, unless for installation of soakwells, a swimming pool, footings, or a cellar/basement contained wholly under the main Residence.
- (9) NOT park or allow to be parked on each Lot, any caravans, trailers, boats, machinery whether mobile or fixed and any commercial motor vehicles including trucks and utilities or any other trailerable vehicle, unless all of such vehicles and machinery are stored or contained wholly within the boundaries of each Lot and stored behind substantial non-transparent fences and/or gates.
- (10) NOT use each Lot for the stockpiling of building materials and or keep rubbish, trash, garbage, or other waste, unless such materials are stored or contained in an appropriate permanent or temporary containers specially constructed for that purpose and placed in appropriate areas wholly within each Lot and are not visible from any other Lot or any Road Reserve, except immediately prior to garbage collection.
- (11) NOT permit or allow all garden areas of the Lot within public view not to be landscaped within six (6) months of practical completion of the Residence.

The above restrictive covenants shall expire and cease to have effect from and including 17 April 2027

### 3. **Benefit and Burden of Restrictive Covenants**

---

3.1 Ardross Estates intends that the burden of the restrictive covenant is to:

- (1) run with the Lots for the benefit of each and every other registered proprietor of the Lots and each and every other registered proprietor of:
  - (a) Lot 1013 on Deposited Plan 55740 Volume 2681 Folio 509 (**Lot 1013**); and
  - (b) Lot 2051 on Deposited Plan 66489 Volume 2757 Folio 955 (**Lot 2051**); and
- (2) be enforceable against the registered proprietor of each of the Lots by Ardross Estates and every subsequent registered proprietor of each and every Lot and the registered proprietor and each subsequent registered proprietor of Lot 1013 and Lot 2051.

3.2 During the period that Ardross Estates is the registered proprietor of any of the Lots, Ardross Estates accepts no responsibility, at law or at equity, for enforcement of the restrictive covenants.

3.3 Ardross Estates is not personally liable in respect of each Lot after Ardross Estates no longer has any registered interest in that Lot.

### 4. **Consents under Section 136E of the Transfer of Land Act**

---

Ardross Estates will obtain any consents required under Section 136E of the Transfer of Land Act to the creation of this deed and the creation of the restrictive covenants over the Lots pursuant to Section 136D of the Transfer of Land Act.

### 5. **Severance**

---

If any covenant in this deed or its application to any person or circumstance is or becomes invalid or unenforceable then the remaining covenants of this deed will not be affected and each remaining covenant will be valid and enforceable to the fullest extent permitted by law.

**EXECUTED** as a deed

**Schedule**

---

**Item 1 - The Estate**

---

Lot 9533 on Deposited Plan 409112, the whole of the land in Certificate of Title  
Volume 2921 Folio 449

ATTESTATION SHEET

Executed by Ardross Estates as a Deed on the \_\_\_\_\_ of \_\_\_\_\_ 2017

The COMMON SEAL of ARDROSS ESTATES (S.A.)  
PTY LIMITED was hereunto affixed by authority  
of the Directors in the presence of:

.....  
Director  
Walter Jacob Cox

.....  
Secretary  
David William Lantzke

**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 full name, address and occupation of the witness must be stated. Execution by a corporation or body corporate must be in accordance with the Corporation Act.



OFFICE USE ONLY

(INSERT NAME OF DOCUMENT)

LODGED BY                    Ardross Estates (SA) Pty Limited  
  
 ADDRESS                      PO Box 7019  
                                     CLOISTERS SQUARE WA  
                                     6850  
 PHONE No.                    08 9481 7070  
  
 FAX No.                        08 9481 7077  
  
 REFERENCE No.            MB Rest Cov Stage 24 DP419033  
  
 ISSUING BOX No.            BOX 888

PREPARED BY: As above  
  
 ADDRESS  
  
  
 PHONE No.                      FAX No.  
  
 REFERENCE No.

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

Empty box for instructions regarding other lodging parties.

TITLES, LEASES, DECLARATIONS ETC LODGED HERewith

|                          |                 |
|--------------------------|-----------------|
| 1. <u>2681/509</u> _____ | Received Items  |
| 2. <u>2757/955</u> _____ | 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