

FORM B2

FORM APPROVAL  
NO. B2856WESTERN AUSTRALIA  
TRANSFER OF LAND ACT 1893 AS AMENDED**BLANK INSTRUMENT FORM****RESTRICTIVE COVENANT** - pursuant to  
section 129BA of the *Transfer of Land Act*.

(Note 1)

This RESTRICTIVE COVENANT is made the                      day of                      2013.

BETWEEN:

**PARTIES**

And

SHIRE OF IRWIN, of 13 Waldeck Street, Dongara in the State of Western Australia. ("the Shire")

**RECITALS**

- A. The Covenantors are registered as the proprietor in fee simple in the land described in Item 1 of the Schedule annexed hereto which land comprises the Land Burdened.
- B. The Land Burdened is subject to the encumbrances noted in Item 2 of the Schedule hereto.
- C. The Land Burdened is situated within the district of the Shire.
- D. The Covenantors applied to the Western Australian Planning Commission ("WAPC") for permission to subdivide land of which the Land Burdened forms part, which application was approved by letter dated 11 April 2012 ("the Approval") subject to conditions of which Condition 1 was stated as follows:
1. *A Restrictive Covenant, pursuant to Section 129BA of the Transfer of Land Act 1983 (as amended), is to be placed on the Certificate of Title of the proposed Lot 405 advising there is a 5metre wide restriction pertaining to the land for the retention of a landscape buffer zone. Notice of this restriction to be included on the Deposited Plan.*
- E. Lot 405 referred to in Condition 1 is Lot 431 on Deposited Plan 74420.
- F. The Covenantors and the Shire have agreed to enter into this Deed pursuant to Section 129BA of the transfer of Land Act 1893 in order to restrict the use of the Land Burdened and to give effect to Condition 1 of the Approval.

## **OPERATIVE PART**

### **1. COVENANTS**

1.1 In consideration of the Shire recommending to the WAPC that the Covenantors have satisfied Condition 1 of the Approval, the Covenantor with the intention of binding so far as is possible the Land Burdened in the hands of whoever it may come for the benefit of the Shire and to comply with the restrictions imposed by the Shire HEREBY COVENANTS with the Shire under and by virtue of the provisions of Section 129BA of the Transfer of Land Act 1893 not to:

- (a) remove or destroy any native vegetation situate within the Land Burdened except for:
  - (i) minor pruning as may be directed by a Shire Representative; or,
  - (ii) removing dead or diseased vegetation or vegetation which presents a safety hazard and in respect of which the Shire has approved such removal.
- (b) build any structure (a "Building") entirely within or encroaching upon the Land Burdened.

1.2 The burden of the covenants hereinbefore contained shall run with the land and any part thereof to the benefit of the Shire and shall be enforceable by the Shire against the Covenantors and every other subsequent registered proprietor of the land.

### **2. COSTS**

The Covenantor shall pay the costs of and incidental to the preparation, execution, stamping and registration of this Deed and all stamp duties and registration fees payable hereon.

### **3. INTERPRETATION**

Reference to the parties includes their personal representatives, successors and lawful assigns.

Where a reference to a party includes more than one person the rights and obligation of those persons shall be joint and several.

Headings have been inserted for guidance only and shall be deemed not to form part of the context.

**SCHEDULE**

**ITEM 1: LAND BURDENED**

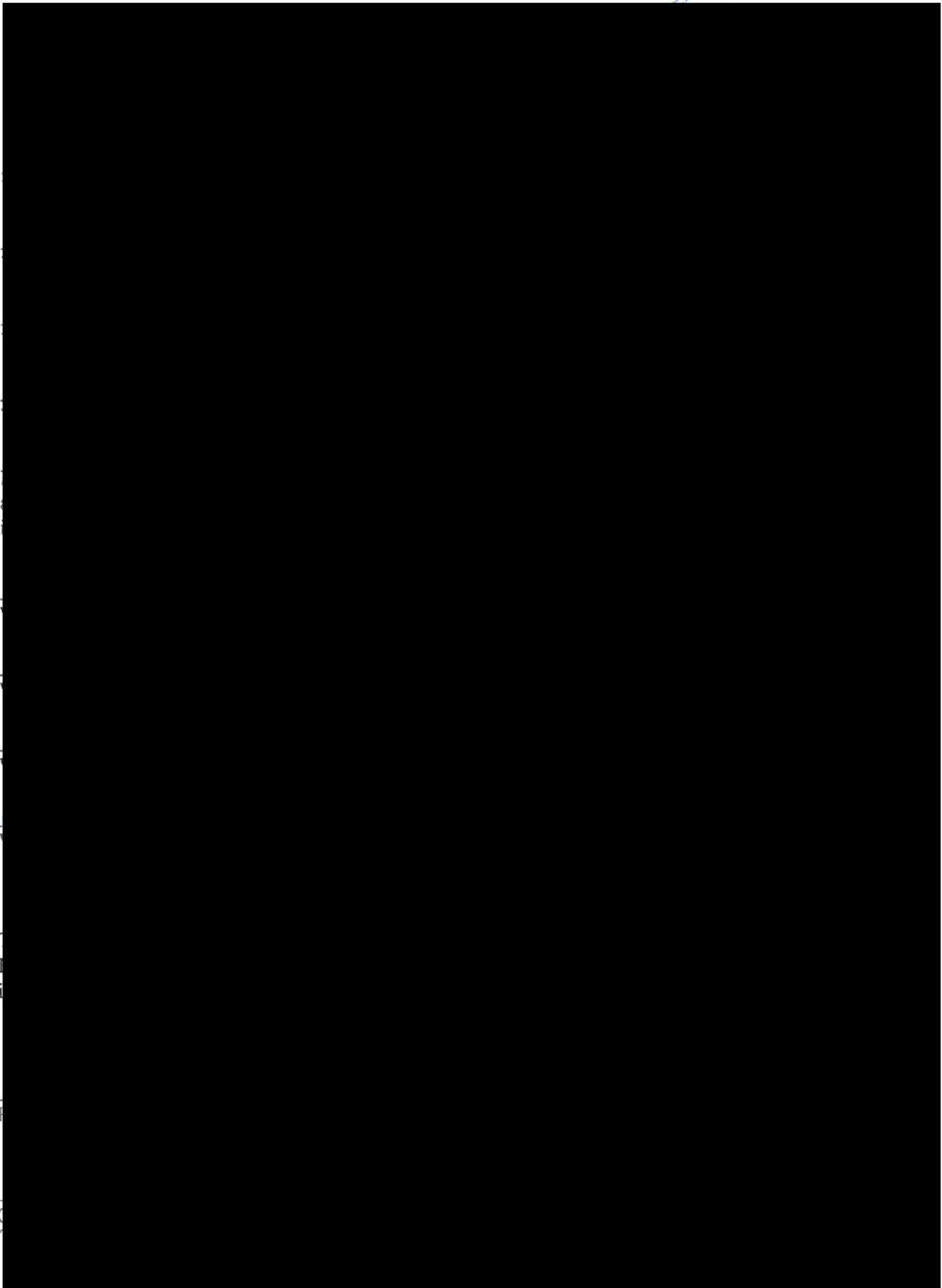
The portion of Lot 431 on Deposited Plan 74420 being the whole of the land comprised in Certificate of Title  
Volume            Folio            which is shown marked with the letter "C" on Deposited Plan 74420.

**ITEM 2: ENCUMBRANCES**

1. K315912 Notification Section 165 P & D Act 2005.
2. Easement (Drainage) pursuant to Section 167 of the P & D Act – see Deposited Plan 69354.
3. Easement (Drainage) pursuant to Section 167 of the P & D Act – see Deposited Plan 74420.

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EXECUTED by the parties as a Deed:



**INSTRUCTIONS**

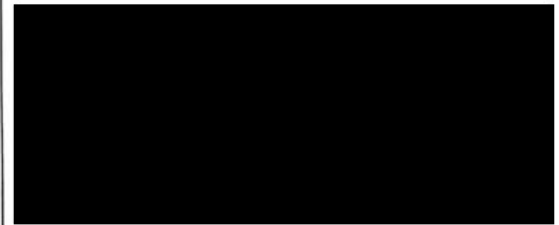
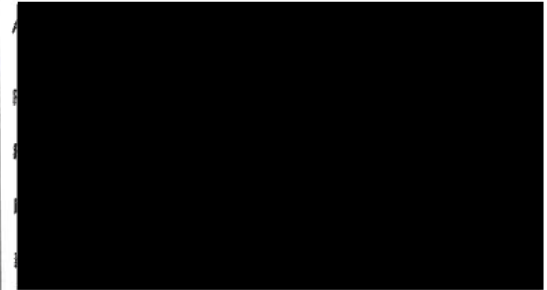
1. This form may be used only when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the 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 initialed 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 address and occupation of the witness must be stated.

**OFFICE USE ONLY**

LODGED BY MDS Legal



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

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TITLES, LEASES, DECLARATIONS ETC LODGED HERewith

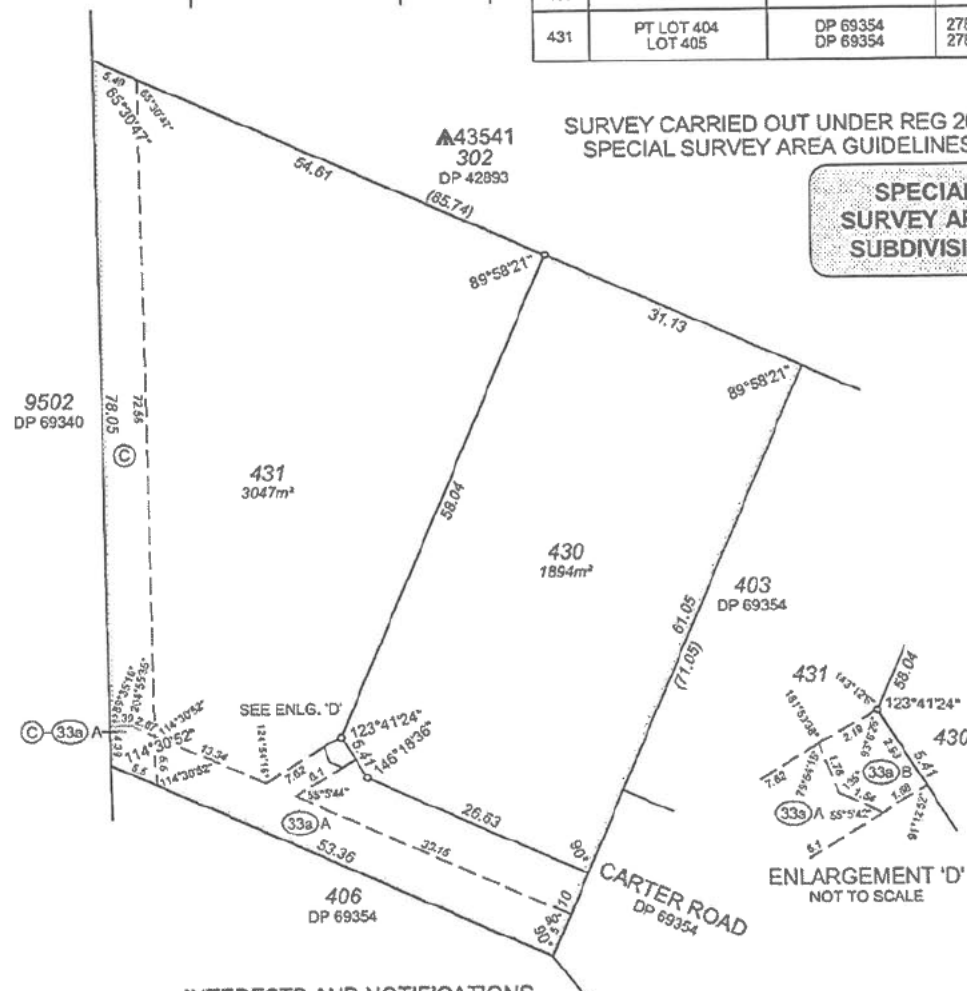
1. _____	Received Items
2. _____	Nos.
3. _____	
4. _____	
5. _____	Receiving Clerk
6. _____	

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**

VER	AMENDMENT	AUTHORISED BY	DATE

LOT	FORMER PI/TENURE	ON PLAN/DIAGRAM	TITLE
430	PT LOT 404	DP 69354	2782-630
431	PT LOT 404 LOT 405	DP 69354 DP 69354	2782-630 2782-631



#### INTERESTS AND NOTIFICATIONS

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
(33a)A	EASEMENT (DRAINAGE)	SEC 167 OF THE P & D ACT REG 33(a)	DP 69354	LOT 431	SHIRE OF IRWIN	
(33a)B	EASEMENT (DRAINAGE)	SEC 167 OF THE P & D ACT REG 33(a)	THIS PLAN	LOT 431	SHIRE OF IRWIN	
©	RESTRICTIVE COVENANT	SEC 129BA OF THE TLA	THIS PLAN & DOC	LOT 431	SHIRE OF IRWIN	LANDSCAPE BUFFER

TYPE	FREEHOLD
PURPOSE	SUBDIVISION
PLAN OF	LOTS 430, 431 & EASEMENT
HELD BY LANDGATE IN DIGITAL FORM ONLY.	

DISTRICT	VICTORIA	RDL FILE
TOWNSITE		
LOCAL AUTHORITY	SHIRE OF IRWIN	
LOCALITY	DONGARA	
FORMER TENURE	ON	FIELD BOOK
SEE TABLE	INDEX SEE SMARTPLAN	116322
SCALE:	1:500 @ A3	5 0 5 10 15 20 25
ALL DISTANCES ARE IN METRES		00000

SURVEYOR'S CERTIFICATE - Reg 64

I, **WAYNE LEWIS**  
hereby certify that this plan is accurate and is a correct  
representation of the -  
(a) survey; and/or  
(b) calculations from measurements,  
insofar as it is applicable  
understand that the purpose of this plan and that it is lodged  
with the relevant written form(s) in relation to which it is lodged.

Duly signed by Wayne Lewis  
Date: 2013.08.24 10:39:23 +0800

Licensed Surveyor Date

**Quantum SURVEYS**  
PT LTD

**GERALDTON CENTRAL**  
PO Box 695 Geraldton WA 6531  
Phonex: 9965 0077 Fax: 9965 0088  
Email: info@quantumsurveys.com.au

LODGED	TYPE OF VALIDATION
DATE 10-Jun-13	FULL AUDIT
FEE PAID \$374.00	LEGAL COMPONENT RF
ASSESS NO. 12831620	DOCKET TRIM
	CERTIFIED CORRECT 24.8.2013
	L.S.G. N/A
	P.A.G.

OUR REF 13036	APPROVED BY
CSD FILE DP74420.csd	WESTERN AUSTRALIAN PLANNING COMMISSION
FILE 145466	
DELEGATED UNDER S.16 P & D ACT 2005	

IN ORDER FOR DEALINGS
SUBJECT TO
Application to discharge portion of Restrictive Covenant L790007
Section 167 P & D Act
Section 129BA TLA
10-Sep-2013
FOR INSPECTOR OF PLANS & SURVEYS DATE
AUTHORISED LAND OFFICER
APPROVED REG 26A (4)
INSPECTOR OF PLANS & SURVEYS DATE
AUTHORISED LAND OFFICER

DATE
Landgate
Western Australian Land Information Authority
DEPOSITED PLAN
74420
SHEET 1 OF 2
VERSION 1

**SURVEY CARRIED OUT UNDER REG. 26A  
SPECIAL SURVEY AREA GUIDELINES**

BEARINGS DATUM IS JURIEAN COASTAL GRID 94  
ALL BEARINGS AND DISTANCES ARE ORIGINAL

▲43541  
12054  
D 83078

401  
DP 69354

402  
DP 69354

403  
DP 69354

▲43541  
302  
DP 42893

430

431

CARTER ROAD  
DP 69354

406  
DP 69354

407  
DP 69354

408  
DP 69354

409  
DP 69354

410  
DP 69354

**FOR HEADING SEE SHEET 1  
SURVEY INFORMATION ONLY  
FINAL SURVEY SHEET**



110  
DP 54797

eFB117904/  
8032\_210A  
Steel Spike  
in bitumen  
DP 69354

421  
DP 69354

Rivet in concrete  
traffic island

eFB117904/  
8032\_210B  
Steel Spike  
in bitumen  
DP 69354

CARTER ROAD  
DP 69354

eFB117904/  
8032\_210  
Precast concrete mark  
with brass plaque  
under hatch cover  
DP 69354

**LEGEND**

- Denote Peg unless stated otherwise
- Denotes Nail/Rivet
- ⊞ Denotes Nail/Screw/Rivet and Plate
- × Denotes Spike
- ⊞ Denotes Drill Hole
- ▲ Denotes Standard Survey Mark (SSM)
- △ Denotes Permanent Survey Mark (PSM)
- △ Denotes Permanent Control Mark (PCM)
- ⊞ Denotes Temporary Control Mark (TCM)

9502  
DP 69340

SCALE: 1:800 @ A3  
ALL DISTANCES  
ARE IN METRES

**Landgate**

Western Australian Land Information Authority

DEPOSITED PLAN

**74420**

Drawn to scale by: [Signature]  
Date: 2013/06/18 13:25:12 -0900  
Licensed Surveyor  
APPROVED BY  
WESTERN AUSTRALIAN PLANNING COMMISSION  
FILE  
DELEGATED UNDER S.16 P & D ACT 2005  
DATE

SHEET 2 OF 2  
VERSION 1