

FORM B2

FORM APPROVAL  
NO. 82856WESTERN 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 18 day of November 2011.

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 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 October 2007 ("the Approval") subject to conditions of which Condition 9 was stated as follows:
  - 9. *A Restrictive Covenant, pursuant to Section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of the proposed lot(s) 405-414 advising of that there is 10 metre 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.*
- H. 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 9 of the Approval.



**OPERATIVE PART****1. COVENANTS**

1.1 In consideration of the Shire recommending to the WAPC that the Covenantors have satisfied Condition 9 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**

Those portions of the following Lots which are shown marked with the letter "A" on Deposited Plan 69354:

1. Lot 405 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 631
2. Lot 406 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 632
3. Lot 407 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 633
4. Lot 408 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 634
5. Lot 409 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 635
6. Lot 410 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 636
7. Lot 411 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 637
8. Lot 412 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 638
9. Lot 413 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 639
10. Lot 414 on Deposited Plan 69354 being the whole of the land comprised in Certificate of Title Volume 2782 Folio 640

**ITEM 2: ENCUMBRANCES**

~~NH~~ K 315912 NOTIFICATION SECTION 165 P & D ACT 2005

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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 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 address and occupation of the witness must be stated.

EXAMINED

**L796337 RC**

30 Nov 2011 10:49:29 Perth



REG \$ 150.00

LODGED BY



PREPARED BY

ADDRESS

PHONE No.

FAX No.

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

2/2

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

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

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.





VER	AMENDMENT	AUTHORISED BY	DATE
2	EASEMENT ADDED LOTS 405 & 406	WAYNE LEWIS	07/10/2011
3	AUDIT REQUIREMENTS	WAYNE LEWIS	10/10/2011
4	SURVEY SHEET ADDED	LANDGATE	28/11/2011

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

**SPECIAL SURVEY AREA SUBDIVISION**

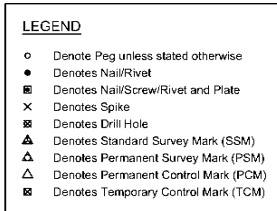
SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
(33a)	EASEMENT (DRAINAGE)	SEC 167 OF THE P & D ACT	THIS PLAN	LOTS 405 & 406	SHIRE OF IRWIN	
(A)	RESTRICTIVE COVENANT	SEC 129BA OF THE TLA	DOC L796337	LOTS 405 - 414	SHIRE OF IRWIN	LANDSCAPE BUFFER

SEE SHEET 2 FOR SURVEY INFORMATION  
ALL BOUNDARY/CORNER SURVEY MARKS SHOWN ON THIS SHEET ARE INDICATIVE ONLY. USE ONLY THE SURVEY SHEET/S WHEN DETERMINING THE TRUE FINAL POSITION AND TYPE OF ALL SURVEY MARKS PLACED PERTAINING TO THIS PLAN.

9500 DP 57285

TYPE	PURPOSE	PLAN OF	FORMER TENURE	SCALE	LOGGED	TYPE OF VALIDATION	SUBJECT TO	IN ORDER FOR DEALINGS
FREEHOLD	SUBDIVISION	LOTS 401 - 421, EASEMENT & ROADS	LOT 9501 ON DP 54797 C/T 2668-280	1:800 @ A2 ALL DISTANCES ARE IN METRES	DATE 29-Sep-11	FULL AUDIT LEGAL COMPLETION JC BOOKED 20025-2010 CERTIFIED CORRECT 10/10/11 ISSC 9473138 P.S.C. N/A	Sec 129BA of the TLA Sec 167 & 168(1)(2) of the P & D Act	
DISTRICT VICTORIA	TOWNSITE	LOCALITY DONGARA	INDEX SEE SMARTPLAN	SURVEYOR'S CERTIFICATE - Reg 54 I, WAYNE LEWIS hereby certify that this plan is accurate and is a correct representation of the: (a) corners and/or (b) calculations from measurements, insects if applicable underlain for the purposes of this plan and that it complies with the relevant written law in relation to which it is lodged. Signed: Wayne Lewis Date: 28/11/2011	OUR REF 8032	APPROVED BY WESTERN AUSTRALIAN PLANNING COMMISSION FILE 135419 DELEGATED UNDER S.16 P & D ACT 2008 DATE 14-Oct-2011	FOR INSPECTOR OF PLANS & SURVEYS / AUTHORISED LAND OFFICER DATE 28-Nov-2011	DEPOSITED PLAN 69354 SHEET 1 OF 2 VERSION 4
LOCAL AUTHORITY SHIRE OF IRWIN			FIELD BOOK 116322	OUR REF 8032	CSD FILE DP69354.csd	DELEGATED UNDER S.16 P & D ACT 2008 DATE 14-Oct-2011	FOR INSPECTOR OF PLANS & SURVEYS / AUTHORISED LAND OFFICER DATE 30-Nov-2011	

FINAL SURVEY SHEET



A circuit diagram showing a battery with electromotive force  $\mathcal{E}$  connected in series with a variable resistor, represented by a rectangle with a diagonal arrow through it. The circuit is a single loop.

BEARINGS DATUM IS JURIEN COASTAL GRID 94

