

Section 136D Deed of Restrictive Covenant

Marri Park Private Estate: Stage 1

GOLDTUNE INVESTMENTS PTY LTD (ACN 113 899 219) of 48 Wickham Street, East Perth, Western Australia ("the Developer").

RECITALS

- A. The Developer is the registered proprietor of an estate in fee simple of the whole of the land described as lot 3 on diagram 65664 being the whole of the land contained in certificate of title volume 1671 folio 913 ("the Land").
- B. The Developer has made an application to register deposited plan 62672 in relation to the Land ("the Subdivision Plan").
- C. Pursuant to section 136D of the *Transfer of Land Act* 1893, the Developer wishes to create the following restrictive covenants on lots 28 to 41 (inclusive), lots 69 to 92 (inclusive) and lots 112 to 135 (inclusive) the subject of the Subdivision Plan ("the Lot" or "the Lots" as the context requires") and unless otherwise specified, for the benefit of the Lots.

OPERATIVE PART

1. Pursuant to section 136D of the *Transfer of Land Act* 1893 the Developer hereby creates restrictive covenants on all the Lots, unless otherwise specified, in the following terms:

A registered proprietor shall not:

Compliance

- (a) Develop a Lot or construct upon a Lot a dwelling unless such development or construction is in compliance with the requirements of the Residential Design Codes, the Town Planning Scheme, the approved Detailed Area Plan (as amended) and all relevant by-laws and policies of the Shire of Serpentine-Jarrahdale;

Minimum Street Front Elevation

- (b) If a Lot has a street frontage width of greater than fifteen (15) metres, construct a dwelling with a street front elevation width of less than eighty percent (80%) of the street frontage width of the Lot. For the purpose of a corner lot, the street frontage relates to the primary street frontage only and for the purpose of measuring the street frontage width, any truncation is ignored and the measurement is taken along the side of the Lot abutting the primary street;
- (c) If a Lot has a street frontage width of less than fifteen (15) metres, construct a dwelling with a street front elevation width of less than seventy-five percent (75%) of the street frontage width of the Lot. For the purpose of a corner lot, the street frontage relates to the primary street frontage only and for the purpose of measuring the street frontage width, any truncation is ignored and the measurement is taken along the side of the Lot abutting the primary street;

External Finish

- (d) Construct a dwelling with external wall materials not primarily made of stone, face brick or painted or coloured cement render;
- (e) Construct a dwelling without incorporating either a portico, gable or feature wall into the street front elevation of the dwelling;

- (f) Construct a dwelling unless each street facing facade is made up of at least two (2) different colours or textures with each such colour or texture (as applicable) making up at least ten percent (10%) of the total surface area of the relevant facade. For the purpose of this clause the term “facade” does not include the roof, gutters, downpipes, windows or doors;
- (g) Construct a dwelling with roofing materials other than concrete or clay tiles or colourbond sheeting (Zincalume is not permitted) and with a pitch of less than twenty-four degrees (24°);

Carports

- (h) Construct a dwelling without a carport or garage capable of housing at least two (2) motor vehicles parked side by side. Such carport or garage shall not be constructed other than in a manner which compliments the dwelling in respect to roof pitch, materials used, design, colour and external appearance;
- (i) Construct out buildings greater than fifteen square metres (15m²) and/or higher than three metres (3m) unless they are constructed from materials that compliment the dwelling in appearance;

Driveways

- (j) Construct a dwelling, unless a driveway and cross-over between the road and the parking area on the Lot are constructed and completed at the same time as or prior to occupation of the dwelling. Any driveway or crossover constructed shall not be less than three metres (3m) wide and no greater than six metres (6m) wide or constructed from anything other than brick pavers, concrete or similar;

Solar Heaters

- (k) Install solar heaters and air conditioners on that part of a roof facing a street and the solar heaters and air conditioners shall not be painted (or consist of coloured materials) of any colours that do not match the roof colour;

Commercial Vehicles

- (l) Park commercial vehicles including trucks, buses and tractors at the dwelling or on a verge abutting the dwelling unless screened from public view at all times or unless parked during the normal course of business by a visiting tradesman;

Repairs

- (m) Repair, restore or maintain any motor vehicle, motor cycle, boat, trailer or any other vehicle unless carried out behind the building line and screened from public view at all times;

Fences

- (n) Construct side and rear boundary fencing using anything other than “River Sand” or similar coloured “Colourbond” fence panels or sheets with “Slate Grey” or similar coloured capping, posts and rails to a maximum height of one and eight tenths of a metre (1.8m) measured from the ground level up;
- (o) Construct fencing between the dwelling and the side boundary of the Lot or forward of the dwelling along the side and front boundaries, that is visible from the street, from any materials other than the materials of the dwelling, which match the appearance of the dwelling;
- (p) Complete construction of fencing to the dwelling any later than twenty-one (21) days from either the date of builder’s handover or the date of occupation of the dwelling, whichever occurs first; or

- (q) Construct a dwelling unless the area between the front building line and the kerb is reticulated and landscaped within sixty (60) days of occupancy.

Signage

Not to erect or display on the Lot any sign hoarding or advertising of any description whatsoever, except for professional signage advertising the sale or lease of a fully completed dwelling house constructed on the Lot or advertising a business operating from the Lot, provided such sign does not exceed 500mm by 500mm in its dimensions. Any sign or advertising material erected or displayed on the Lot in breach of this covenant may be removed without notice by the Seller.

2. The burden of the covenants and restrictions contained in this deed shall run and bind each of the Lots and bind the registered proprietors and their successors in title, transferees and assigns and shall endure for the benefit and be enforceable by each and every other registered proprietor of the Lots, and their successors in title, transferees and assigns.
3. When at any time two or more persons or corporations own a joint interest in any of the Lots, their liability hereunder will be joint and several. Any person who becomes, is or was a registered proprietor of any of the Lots will be liable for any breach of the restrictive covenant affecting the Lot which occurs while that person or corporation was the (or one of the) registered proprietor(s) of that Lot.
4. A person who becomes a registered proprietor of any of the Lots, may whilst that person is the registered proprietor, enforce or take action in respect of a breach of the restrictive covenants created by this deed notwithstanding the breach complained of, in respect of any of the Lots, may have occurred prior to the person seeking to enforce the breach becoming the registered proprietor of the Lot.
5. The restrictive covenants outlined in this deed shall cease to exist on 31 December 2015.
6. If any part of this deed is void or voidable, then that part shall be severed from this deed so that all parts that are not void or voidable remain in full force and effect and are unaffected by that severance.
7. Headings and sub-headings are inserted for convenience of reference only and shall not affect the interpretation of this deed.
8. In this deed "construct" shall mean to construct, commence to construct, permit or suffer to be constructed or commenced to be constructed.