

**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

**J986996 RC**

15 Nov 2006 11:31:31 Perth



REG \$ 82.00

LODGED BY ~~Beere & Meyer~~ **WORLDWIDE SETTLEMENTS**

ADDRESS ~~PO Box 953 BUSSELTON WA 6280~~ **1/45 ORD ST WEST PERTH**

PHONE No. **9752 4166 94814506**

FAX No. ~~9754 1732~~ **94815051**

REFERENCE No. **JMT060457**

ISSUING BOX No. **403A**

PREPARED BY **Beere & Meyer**

ADDRESS **PO Box 953 BUSSELTON WA 6280**

PHONE No. **9752 4166** FAX No. **9754 1732**

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

2/4

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.



*[Handwritten signature]*

Signed for and on behalf of  
**BROOKFIELD ESTATE PTY LTD**  
(ACN 111 884 667) by Authority  
of its Director/Secretary in accordance  
with section 127 of the Corporations Law

Executed by BROOKFIELD ESTATE PTY LTD  
(ABN 21 475 022 530) pursuant to Section 127  
of the Corporations Act 2001 by:

*Alex Goldsmith Meares*

Director/Secretary - STEPHEN JOHN COURT  
DIRECTOR - ALEX GOLDSMITH MEARES

The Common Seal of the SHIRE  
OF AUGUSTA-MARGARET  
RIVER was hereunto affixed by  
authority of the Council in the  
presence of:



*[Signature]*  
Shire President

*[Signature]*  
Chief Executive

### Mortgagee Consent

**WESTPAC BANKING CORPORATION (ACN 007 457 141)** of 109 St Georges Terrace Perth Western Australia as the Mortgagee named in Mortgage No J352077 HEREBY CONSENTS to the terms of this Deed and to the Restrictive Covenants being endorsed as an encumbrance on the lots referred to in this Deed.

*Executed by Westpac Banking Corporation  
ABN 33 007 457 141 by being signed in  
Western Australia by its Attorneys under  
Power of Attorney No. #663334*

*[Signature]*

*Karen Jean Paull - Tier 3 Attorney. 26/9/06*

*who declares that they hold the office in  
the Bank indicated under their signature  
in the presence of*

*[Signature]* Ljubisa Milovanovic.

*Witness 26/9/06*

## THE SCHEDULE

### PART I

#### The Covenantor

**BROOKFIELD ESTATE PTY LTD (ACN 111 884 667)** of 1 Riverway, Applecross, Western Australia

### PART II

#### The Land

Lot 9004 on Deposited Plan 51941 being the whole of Certificate of Title Volume 2638  
Folio 74

### PART III

#### Burdened Lots

Lots 348 to 352 inclusive, Lots 328 to 330 inclusive and Lots 353 to 359 inclusive.

### PART IV

#### Restrictive Covenant

A proprietor of a Burdened Lot shall not have vehicular access to or egress from the roads named on the Plan and as described herein between the following areas:

- (a) As to Lots 348 to 352 inclusive, the boundaries depicted between marks "C" and "D" to and from Olearia Crescent;
- (b) As to Lots 328 to 330 inclusive, the boundaries depicted between the marks "E" and "F" to and from Dryandra Drive and Abelia Avenue respectively;
- (c) As to Lots 353 to 359 inclusive, the boundaries depicted between the marks "G" and "H" to and from Dryandra Drive and Abelia Avenue respectively.

### PART V

#### Encumbrances

Mortgage J352077 to Westpac Banking Corporation

### PART VI

#### The Shire

The Shire of Augusta Margaret River, Town View Terrace, Margaret River, Western Australia

- (b) the burden of the covenants in this Deed will be attached to and burden each of the Burdened Lots.

### 3. Restrictive Covenant

The Covenantor as the proprietor of the Land agrees the Restrictive Covenant shall burden the Burdened Lots on the Plan for the benefit the Shire.

### 4. Definitions

For the purpose of this Deed:

- (a) “**Burdened Lot or Burdened Lots**” shall mean each of the Lots described in Part III of the Schedule;
- (b) “**Covenantor**” shall mean the persons or Corporation as described in Part I of the Schedule hereto;
- (c) “**Encumbrances**” shall mean the encumbrances named in Part V of the Schedule hereto;
- (d) “**Land**” shall mean the Land described in Part II of the Schedule hereto;
- (e) “**Plan**” shall mean Deposited Plan 52476;
- (f) “**Restrictive Covenant**” shall mean the Covenant in Part IV of the Schedule hereto;
- (g) “**Shire**” shall mean the Shire whose details appear in Part VI of the Schedule hereto.

### 5. Signing of documents

The Covenantor will sign all other documents and do any thing reasonably required to give effect to this Deed and in particular will sign any other document required to register the Restrictive Covenant contained in this Deed against the Certificate of Title for each of the Burdened Lots.

### 6. Encumbrances

Where the Land is encumbered with Encumbrances, the Covenantor shall obtain from each mortgagee and encumbrancee their consent to this Deed and the creation of the Restrictive Covenant.

### 7. Headings

The headings in this Deed are for information purposes only and do not form part of this Deed and shall not be taken into account in interpreting this Deed.

Busselton Court	BS1
SN/1/C17	\$20.00
40898/2700775 Total:	\$20.00
Amount Tendered:	\$20.00
Change:	\$0.00
16/10/2006 01:55	

**BLANK INSTRUMENT FORM****RESTRICTIVE COVENANT**

(Note 1)

**RESTRICTIVE COVENANT****Pursuant to Section 129BA of the Transfer of Land Act****THIS DEED** is made the 14<sup>TH</sup> day of NOVEMBER 2006

BETWEEN:

The Covenantor

AND

The Shire

**WHEREAS:**

- A. The Covenantor is the Proprietor of the Land ("the Land").
- B. The Covenantor proposes to subdivide the Land in accordance with the Plan ("the Plan").
- C. The Covenantor wishes to create a Restrictive Covenant in gross for the benefit of the Shire to ensure the Lots the subject of the Plan have the burden of the Restrictive Covenant set out hereafter.

**OPERATIVE PART****1. Section 129BA – Registration**

The Covenantor pursuant to Section 129BA of the Transfer of Land Act for the benefit of the Shire covenants and agrees the Restrictive Covenants in gross as set out herein burdens the Burdened Lots to the extent of the Restrictive Covenant.

**2. Benefit and Burden of Restrictive Covenants**

The Covenantor acknowledges and agrees:

- (a) the benefit of the covenants in this Deed is for the Shire;