

FORM APPROVAL
B1304

FORM B4

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S136D Restrictive Covenant DP 64910

LODGED BY

ADDRESS **MALLESONS STEPHEN JAQUES**
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PREPARED BY **MALLESONS STEPHEN JAQUES**

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



TITLES, LEASES, DECLARATIONS ETC LODGED HERewith.

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

[Signature]
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



EXAMINED

103189_1.DOC

**Deed of Restrictive Covenant - Rapids
Landing Margaret River Lots 66, 131 to 153 on
Deposited Plan 64910 pursuant to section
136D of the Transfer of Land Act 1893**
Signing page

DATED: 7 August 2009

EXECUTED by BALWYN)
MARGARET RIVER PTY LTD)
ACN 107 109 455 in accordance with)
section 127(1) of the Corporations Act)
2001 (Cwlth) by authority of its)
directors:)

.....
Signature of director

.....
Russell Bryce LESTER
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Adrian John LESTER
Name of director/company secretary
(block letters)

**Deed of Restrictive Covenant - Rapids
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136D of the Transfer of Land Act 1893
Schedule**

Item 1 - The Estate

The whole of the land formerly comprised in Lot 27 on Deposited Plan 26553 being the whole of the land in certificate of title Volume 2213 Folio 522

Item 2 - The Excluded Lot

Lots 9002

Item 3 - The Deposited Plan

Deposited Plan 64910

Item 4 - The Subdivided Land

Lot 9001 on Deposited Plan 57708 being the whole of the land comprised in Certificate of Title Volume ~~2726~~ Folio ~~993~~ but now being the land comprised in Deposited Plan 64910.

caravan, boat or trailer or other wheeled conveyance less than 2 metres wide and 3 metres long owned by the occupant of any dwelling on the Lot which is parked inside a garage or car park or in such a position so as not to be visible from any other dwelling in the Estate or from the public road system.

- (i) Permit any vehicle, boat, or wheeled conveyance to be repaired or restored on the Lot unless it is not visible from any other dwelling in the Estate or from the public road system.
- (j) Construct or install or allow to remain installed on the Lot or on any improvement on the Lot any television or radio aerial or satellite dish visible from any place within the Estate.

2.3

Nothing in clause 2.2 is intended nor shall be deemed to remove, reduce or affect any obligations of the Registered Proprietor to apply for and obtain planning or other relevant approvals of local and other relevant authorities with respect to any development or use of a Lot, including but not limited to those which may be required pursuant to a Section 70A Notification.

In this clause "development" has the meaning given to it in Section 4 (1) Planning and Development Act 2005.

3 Benefit and burden

3.1

The burden of the covenants in Clause 2 is appurtenant to and will run with Lots 66 and 131 to 153 for the benefit of every other lot in the Estate to the intent that the covenants will bind the Registered Proprietor and the Registered Proprietor from time to time of Lots 66 and 131 to 153 and will be for the benefit of the Registered Proprietor and any other Registered Proprietor from time to time of every other lot in the Estate but not so as to render the Registered Proprietor personally liable after the Registered Proprietor has parted with all interests in the Lot.

3.2

The covenants in Clause 2 expire on a date 5 years from the date of registration of the application for new certificates of title for the land in Deposited Plan 64910.

4 Consents under S 136E of the Transfer of Land Act

The Registered Proprietor will obtain any consents required under S.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

EXECUTED as a deed

- (c) Construct the roof of any dwelling or any carport, garage or other outbuilding that is or may be visible from the road side boundary of the Lot:
 - (i) with material other than clay tiles, timber or slate shingles, concrete tiles or metal sheeting having its exterior surface colour coated, sealed and treated so as not to have highly reflective qualities;
 - (ii) with a pitch of less than 24° on the main roof; or
 - (iii) if a skillion design having a roof pitch of less than 7 degrees; or
 - (iv) if a curved roof, with a curve of radius greater than 14 metres.
- (d) Construct on the Lot any outbuildings, other than of a design and with the materials used in the construction of the dwelling, or with other materials which are painted in a colour to integrate the outbuildings with the dwelling or its surroundings unless it is not visible from the road side boundary of the Lot and is constructed at the rear of the Lot behind the dwelling or the proposed site of the dwelling.
- (e) Construct any fences or walls:
 - (i) higher than 1.2 metres forward of the building line unless the wall or fence forms part of a carport or garage; or
 - (ii) where the Lot fronts two roadways, higher than 1.8 metres up to the building line along the longer of the two boundaries; or
 - (iii) made of corrugated fibro cement or similar material; or
 - (iv) made of corrugated iron, except in the case of dwelling wall cladding where less than 50% of the total dwelling external wall area is covered by corrugated iron which is not highly reflective.
- (f) Clear any vegetation from the Lot except as required to comply with the regulations or by laws relating to fire prevention, or to the extent required for access to the Lot, safety of its occupants or amenity of and dwellings on the Lot.
- (g) Gain vehicular access to or from the Lot from or to the public road system except by way of a driveway of not less than 2.5 metres constructed of hot mix bitumen, paving materials (including paving bricks) or concrete.
- (h) Permit any commercial vehicle or caravan, boat, trailer, or other wheeled conveyance (other than trade vehicles or trailers driven on to the Lot by tradespersons remaining temporarily on the Lot in the course of the tradespersons ordinary business with an occupant of the Lot) to be parked on the Lot unless it is a light commercial vehicle or

2 Special Covenants relating to use by Registered Proprietor

2.1

The Registered Proprietor 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 the covenants will be registered against the Certificate of Title to each Lot.

2.2

The Registered Proprietor (which expression includes the transferees, assigns and successors of the Registered Proprietor) covenants that the Registered Proprietor will NOT:

- (a) erect or commence or cause or allow to be constructed or erected on any Lot:
 - (i) any residence or improvements unless the plans and specifications for the residence or improvement have been first:
 - (A) submitted in duplicate to BMR or their nominated representative not less than 60 days prior to the intended date of commencement of construction or erection;
 - (B) approved by the Shire;
 - (ii) an occupiable improvement other than a permanent non-transportable private single residential dwelling ("prescribed dwelling") which expression also includes extensions, renovations or alterations to this dwelling;
 - (iii) more than one prescribed dwelling unless the site is a designated multiple dwelling site, in which case the Registered Proprietor will not build more than the number of prescribed dwellings specified for the Lot under its multiple residential designation;
 - (iv) any dwelling having an area (inclusive of the outer faces of the external walls but exclusive of areas under verandahs, soffits, porches, garages or carports) of less than 120 square metres; or
 - (v) any residence or improvements using material other than masonry bricks finished in face work or render, stone or blocks, rammed earth or timber and fibro cement materials for external walls unless it is a minimum thickness of 8mm. Corrugated iron unless it represents less than 50% of the total wall area of the front facade.
- (b) Construct carports or garages on the Lot with materials other than materials used in the construction of the walls and roof of the dwelling.

Deed of Restrictive Covenant - Rapids Landing Margaret River Lots 66, 131 to 153 on Deposited Plan 64910 pursuant to section 136D of the Transfer of Land Act 1893

General terms

1 Definitions

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

1.1 Land Definitions

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

Excluded Lot means the Lot or Lots described in Item 2 of the Schedule.

Lot means a Lot created upon registration of the Plan other than an Excluded Lot.

Plan means the deposited plan of the Subdivided Land described in Item 3 of the Schedule.

Subdivided Land means the land described in Item 4 of the Schedule.

1.2 Other Definitions

BMR means Balwyn Margaret River Pty Ltd ACN 107 109 455 or its successor in title to the balance of the Estate not sold to individual purchasers of Lots within the Estate.

Designated multiple dwelling site means land which has been approved as a multiple dwelling site under the residential planning codes by the Shire, and "multiple residential designation" has the corresponding meaning.

Public road systems means the public road system within the boundaries of the Estate.

Prescribed dwelling means a permanent non transportable private single residential dwelling and includes any extensions, renovations or alteration to the dwelling.

Shire means the Shire of Augusta Margaret River.

**Deed of Restrictive Covenant - Rapids
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Deposited Plan 64910 pursuant to section
136D of the Transfer of Land Act 1893
Details**

Parties

Registered Proprietor	Name	Balwyn Margaret River Pty Ltd
	ACN	107 109 455
	Address	having its registered office at Level 2, 47 Stirling Highway, Nedlands, Perth, Western Australia

Recitals	A	The Registered Proprietor is the Registered Proprietor of the Estate and intends to carry out subdivisions and sales of Lots within the Estate.
	B	The Registered Proprietor proposes to register a Deposited Plan of Subdivision in respect of the Subdivided Land which forms part of the Estate.
	C	The Registered Proprietor wishes to register restrictive covenants in respect of all the Lots within the Subdivided Land (other than the Excluded Lots) pursuant to Section 136D of the Transfer of Land Act so that those covenants will benefit and burden those Lots.

Governing law	Western Australia
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Date of deed	See Signing page
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Deed of Restrictive Covenant - Rapids Landing Margaret River Lots 66, 131 to 153 on Deposited Plan 64910 pursuant to section 136D of the Transfer of Land Act 1893

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MALLESONS STEPHEN JAQUES

Deed of Restrictive Covenant -
Rapids Landing Margaret
River Lots 66, 131 to 153 on
Deposited Plan 64910 pursuant
to section 136D of the Transfer
of Land Act 1893

Dated 7 August 2009

Balwyn Margaret River Pty Ltd (ACN 107 109 455) ("Registered
Proprietor")

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