

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.

EXAMINED

L366933 E

08 Jul 2010 08:00:00 Midland



REG \$ 135.00

27th July 2010

LODGED BY Peter May, Commercial Lawyer

ADDRESS 20 Prince Street
Busseton WA 6280

PHONE No. (08) 9752 4899

FAX No. (08) 9752 4899

REFERENCE No. PM 99 (08) 9754 2385 FAX (08) 9751 3487

ISSUING BOX No.

PREPARED BY Peter May, Commercial Lawyer

ADDRESS 20 Prince Street
BUSSELTON WA 6280

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

1/3

TITLES, LEASES, DECLARATIONS ETC. LODGED HERewith

1.	<i>1688-446</i>	Received Items
2.	<i>letter</i>	No.
3.		<i>1-2</i>
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.



8. REGISTRATION

8.1 Registration

The parties agree that as soon as reasonably practicable after execution this Easement will be registered at Landgate, Western Australia. Both parties shall do all such things as may be necessary to facilitate such registration.

8.2 Further Assurance

Each party will do all things and execute all further documents necessary to enable registration of this Easement at Landgate, Western Australia and to give full effect to this Easement.

9. GOODS AND SERVICES TAX

9.1 In this Easement, the terms "GST", "GST law", "Tax Invoice" and "Taxable Supply" have the meaning given in section 195-1 of The New Tax System (Goods and Services Tax) Act 1999 and any legislation substituted for or amending that Act.

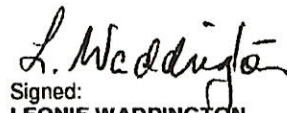
9.2 The Grantee must pay any GST payable by the Grantor in respect of a Taxable Supply made under this Easement and such GST is included in the Price.


9.3 Where GST is payable, the Grantor shall provide to the Grantee, if required by the Grantee, a Tax Invoice in the format and form required as set out in the GST law.


DATED THIS 31ST DAY OF MARCH 2010.

EXECUTED AS A DEED

Signed: 
DONALD MAGER WADDINGTON

Signed: 
LEONIE WADDINGTON

In the presence of: 
Witness Name: **KEVIN J WADDINGTON**

In the presence of: 
Witness Name: **KEVIN J WADDINGTON**

Witness address: **LOT 101 EAST NANNUP RD
NANNUP WA 6275**

Witness address: **LOT 101 EAST NANNUP RD
NANNUP WA 6275**

Witness occupation: **LOCAL GOVERNMENT CONSULTANTS**

Witness occupation: **LOCAL GOVERNMENT CONSULTANTS**

Signed: 
MICHAEL CHRISTOPHER COLMAN

Signed: 
URSULA MARGRIT COLMAN

In the presence of: **David Nicholson**
Witness Name: **DAVID NICHOLSON**

In the presence of: **David Nicholson**
Witness Name: **DAVID NICHOLSON**

Witness address: **SHIRE OF AUGUSTA
MARGARET RIVER
TOWN VIEW TERRACE
MARGARET RIVER 6285**
Witness occupation:

Witness address: **SHIRE OF AUGUSTA
MARGARET RIVER
TOWN VIEW TEE
MARGARET RIVER 6285**
Witness occupation:

MANAGER ASSET SERVICES

MANAGER ASSET SERVICES

3.4 The Grantee covenants with the Grantor that the Grantee will during the term of this Easement comply with any conditions attached to any grant of consent or permission obtained under clause 3.3 of this Easement.

4. **PROPERTY IN THE DRAINAGE PIPELINE**

4.1 Subject to clause 4.3, the Grantor acknowledges and agrees with the Grantee that the Grantor has no property or interest in the Drainage Pipeline, which shall be and remain the property of the Grantee, and the Drainage Pipeline does not constitute a fixture.

4.2 The Grantee shall have the right to remove the Drainage Pipeline from the Land at any time after having first given to the Grantor reasonable written notice.

4.3 If the Drainage Pipeline is no longer required by the Grantee or the registered proprietors for the time being of the Dominant Tenement and is not removed in accordance with clause 4.3, the presence of the Drainage Pipeline on the Land shall no longer be authorised by this Easement and:

- (a) the Grantor may, but is not obliged to, remove the Drainage Pipeline from the Easement Area and make good any damage caused by that removal; and
- (b) any costs or expenses incurred by the Grantor in removing the Drainage Pipeline are a debt then due by the Grantee to the Grantor and may be recovered in a Court of competent jurisdiction.

5. **MODIFICATION**

5.1 The rights granted to the Grantee under this deed will not be modified, surrendered, released or abandoned either wholly or partially except with the prior written consent of the Grantor and the Grantee and neither of those parties shall make application to any Court, the Commissioner of Titles, the Registrar of Titles or Landgate, Western Australia for the partial or whole modification, removal or extinguishment of any right granted to the Grantee under this deed except with such prior written consent of all parties.

6. **GENERAL PROVISIONS**

6.1 If a Court determines that a word, phrase, sentence, paragraph or clause in this Easement is unenforceable, illegal or void then it shall be severed and the other provisions of this Easement shall remain operative.

6.2 The indemnities contained in clause 3.2, the Grantee's obligation to remove the Drainage Pipeline under clause 4.3 and the rights and obligations contained in clause 4.3(b) survive the expiration, cancellation or other determination of this Easement.

6.3 The Grantee shall be liable for the costs, including legal costs, of preparation of this Easement and all duty payable on it pursuant to the Duties Act.

7. **NOTICES**

7.1 Any notice, consent or other writing authorised or required by this Easement to be given or sent shall be given and served in the manner required by s.135 of the PLA.



- (a) carry out and complete any work commenced at any time on the Land in respect of the Drainage Pipeline in a proper and workmanlike manner with all proper speed and fill in, consolidate and level off any holes or trenches made by those works on the Land and reinstate and make good the surface of the Land within a reasonable period to a standard reasonably required by the Grantor, being no greater than what it was before those works were commenced together with the reinstatement of improvements thereon (if any) and to carry away all earth and rubbish;
- (b) whilst the soil or surface of the Easement Area is opened during the progress of any work, including the construction, alteration, repair, maintenance or replacement of the Drainage Pipeline on the Easement Area, ensure that the same is properly guarded and affix adequate signs or notices for the warning of persons, especially (but not limited to) children, likely to be endangered by such work;
- (c) at the Grantee's expense comply with all laws that apply to the Drainage Pipeline, or any works or other thing on the Easement Area by or on behalf of the Grantee.

3.2 The Grantee HEREBY COVENANTS with the Grantor to indemnify and keep indemnified the Grantor, and all servants, workmen, agents and contractors of the Grantor (the indemnified parties) from and against all actions, claims, cost proceedings, suits and demands whatsoever (whether arising founded on or based in contract, tort or statute or otherwise howsoever or any combination thereof) which may at any time be brought maintained or made against all or any one or more of them:

- (a) in respect of any loss (including loss of use), injury or damage of or to any nature or kind of property; and
- (b) in respect of any death or injury sustained by any person including an officer, servant, workman, agent or contractor of the Grantor,

to the extent that such loss, injury, death or damage is directly or indirectly caused by, arises out of or in connection with:

- (i) the use of the Land by the Grantee;
- (ii) any work carried out by or on behalf of the Grantee under this Easement, including the removal of the Drainage Pipeline under clause 4.4;
- (iii) the construction, maintenance, replacement or use by the Grantee or by its employees, agents or contractors of the Drainage Pipeline within the Easement Area;
- (iv) the exercise of any of the rights conferred on the Grantee under this Easement; and
- (v) any default by the Grantee in the due and punctual performance of or compliance with any of the covenants contained in this Easement;

but this indemnity shall not apply to the extent that such loss, injury, death or damage is caused by the negligence of any of the Indemnified Parties.

3.3 The Grantee:

- (a) covenants with the Grantor that the Grantee will not assign or transfer the rights of the Grantee under this Easement without obtaining the prior written consent of the Grantor;
- (b) acknowledges that such consent may not be unreasonably withheld but if given may be given subject to such conditions as the Grantor in the Grantor's absolute discretion considers necessary or desirable.

Servient Tenement means Lot 7 on Plan 14932 and being the whole of the land comprised in Certificate of Title Volume 1688 Folio 446;

1.2 Interpretation

In this Easement:

- (a) clause headings are for convenient reference only and shall have no effect in limiting or extending the language of the provisions to which they refer;
- (b) the singular includes the plural, the plural includes the singular and any gender includes each other gender;
- (c) a reference to any thing is a reference to the whole or any part of it;
- (d) where the day on or by which a thing is required to be done is not a Business Day that thing must be done on or by the next succeeding Business Day;
- (e) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (f) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (g) including is deemed to be followed by the words, but not limited to;
- (h) covenants in this Easement by two or more persons as a party to this Easement shall deemed to be joint and several; and
- (i) references to statutes, regulations, ordinances and by-laws when contained in this Easement include amendments, re-enactments or consolidations of any of them and a reference to a statute includes every regulation, proclamation ordinance and by-law issued under that statute.

2. GRANTEE'S RIGHTS

2.1 The Grantor HEREBY GRANTS to the Grantee, and its employees, agents or contractors, the right to enter with or without vehicles (laden or unladen) and with such materials, machinery, plant and equipment as is reasonably necessary upon the Land and to remain on the Land only for so long as is reasonably necessary for all or any of the following purposes:

- (a) make surveys and take levels of the Easement Area;
- (b) construct, extend, maintain, alter and improve the Drainage Pipeline under the Easement Area;
- (c) open and break up the soil of the Easement Area and excavate and sink trenches for the purpose of inspecting, extending, maintaining, altering or improving the Drainage Pipeline;
- (d) open, cleanse and repair the Drainage Pipeline.

2.2 To use the Drainage Pipeline for the transmission of stormwater and waste water.

3. GRANTEE'S COVENANTS

3.1 The Grantee HEREBY COVENANTS with the Grantor that the Grantee shall, during the term of this Easement:



FORM B 2

FORM APPROVED

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1985 AS AMENDED

OFFICE OF
29 APR 2010
The Valuer
STATE REVENUE WA

ABN 66 012 878 629
WESTERN AUSTRALIA DUTY
TSF 07/05/10 08:13 003011920-001 VG Y
DUTIABLE VALUE \$ *****500
DUTY \$ *****.00
EXEMPT 100 %

BLANK INSTRUMENT FORM

EASEMENT

(Note 1)

DONALD MAGER WADDINGTON and LEONIE WADDINGTON both of Post Office Box 77, Margaret River ("the Grantor")

and

MICHAEL CHRISTOPER COLMAN and URSULA MARGRIT COLMAN both of 6 Melissa Street, Duncraig ("the Grantee")

RECITALS

- A. The Grantor is registered as the proprietor of an estate in fee simple of the Servient Tenement.
- B. The Grantee is registered as the proprietor of an estate in fee simple of the Dominant Tenement.
- C. The Grantee has requested the Grantor to grant this Easement over the Easement Area to provide drainage infrastructure including a pipeline servicing the Dominant Tenement.
- D. The Grantee has agreed to grant the easement on the terms herein.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Easement unless the contrary intention appears:

Business Day means any day other than a Saturday, Sunday or State public holiday in Western Australia;

Dominant Tenement means Lot 8 on Plan 14932 and being the whole of the land comprised in Certificate of Title Volume 1688 Folio 447;

Drainage Pipeline means the Drainage Pipeline and all related infrastructure and fittings necessary for the safe and proper working or operation of the Drainage Pipeline that may be constructed on the Easement Area by the Grantee;

Easement Area means that part of the Land as is marked with the letter A on Deposited Plan 65529;

Instrumentality includes all statutory authorities, bodies corporate and corporations sole that are owned or controlled by the State of Western Australia;

Land means the Servient Tenement;

PLA means the Property Law Act 1969;

Conveyancing Southwest Pty Ltd ABN: 44 101 912 858 trading as



Licensed Real Estate Settlement Agent

Licensee Jan McCaughan AIC

Unit 1/89 Duchess Street

PO Box 1257

Busselton WA 6280

Phone 9754 2385

Fax 9751 3487

admin@conveyancingsw.com.au

19th July 2010

Landgate
PO Box 2222
MIDLAND WA 6936

FAX 9273 7673 Attention Alan McPherson

Dear Sir

**RE DEALING NO L 366933
Colman Easement & Application for New Titles**

I act on behalf of the Applicants in the above matter and hereby have authority to make on their behalf the following amendments:

Please re time clock the lodged documents once Deposited Plan 65529 has been marked in order for dealing.

Thank you for your assistance in this matter.

Yours faithfully,
CONVEYANCING SOUTH WEST



Jan McCaughan
Licensee

Visit us at our website www.conveyancingsw.com.au