

FORM APPROVAL
B1304

FORM B4

L 51148 RC

24 Aug 2009 14:37:49 Perth



9.9.2009
at 11.09.02
REG \$ 110.00

S129BA Restrictive Covenant DP 57708 (Lot 9001)

LODGED BY

ADDRESS **MALLESONS STEPHEN JAQUES**
Level 10 Central Park
152 St Georges Terrace
Perth WA 6000

PHONE NO. TEL (08) 9269 7000 FAX (08) 9269 7999
ISSUING BOX 168 H

FAX NO.

REFERENCE NO. JJ-LI: 09 5174 8453

ISSUING BOX NO. 168H

PREPARED BY **MALLESONS STEPHEN JAQUES**

ADDRESS **LEVEL 10 CENTRAL PARK**
152 ST GEORGES TERRACE
PERTH WA 6000

REFERENCE

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

(2) 2 UP to
MINTEN ELLISON
(P) 19 W

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH.

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

EXAMINED

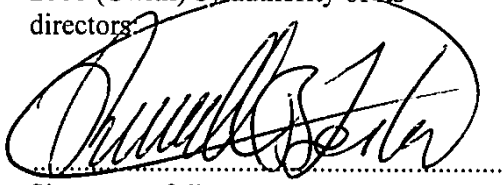
Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



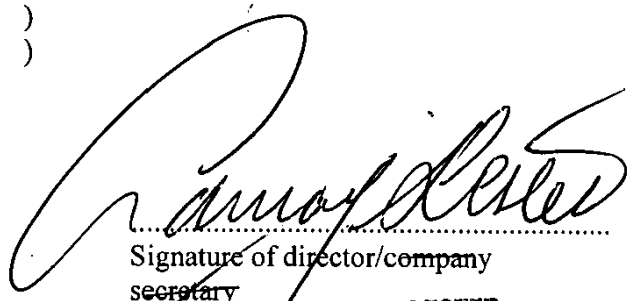
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Execution page

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:

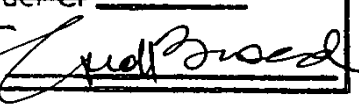


Signature of director
Russell Bryce LESTER
Name of director (block letters)



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

THE COMMON SEAL of THE)
SHIRE OF AUGUSTA MARGARET)
RIVER is affixed in the presence of:)
)
)

Director Planning
and Development Services
Pursuant to Delegation
Instrument No. 17
S.5.42 and S.5.44
Local Government Act 1995
and/or under CI _____
of TPS No _____
Signature 

Signature of authorised person

Signature of authorised person

Office held

~~DIRECTOR PLANNING & DEVELOPMENT~~
Office held SERVICES

Name of authorised person (block
letters)

CLIFF BROAD
Name of authorised person (block
letters)

The Schedule

Item 1 - Deposited Plan

Deposited Plan 57708

Item 2 - Land

Lot 9000 on Deposited Plan 56165 being the whole of the land comprised in certificate of title Volume 2682 Folio 945

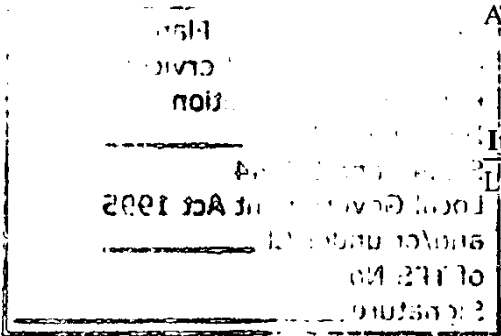
Item 3 - Limitations, Interests, Encumbrances and Notifications

Easements burden (5) created under Section 167 Planning & Development Act to the Water Corporation

Easement burden created under Section 167 Planning & Development Act to Electricity Networks Corporation

Item 4 - Lot

Lots 9001 on Deposited Plan 57708



2 Covenant

The Covenantor pursuant to Section 129BA of the Transfer of Land Act and in respect of the Lot covenants with the Shire:

- (a) not to permit any vehicular access to or from the Lot across those parts of the Lot boundary which are marked on the Deposited Plan as A to B, C to D, E to F, G to H, I to J, K to L, M to N, O to P, Q to T, U to V, Y to Z, AA to AB, AC to AD, and AE to AF.
- (b) not to erect any carport or garage on the Lot except in the manner set out in the Detailed Area Plan;
- (c) not to construct driveways or other means of vehicular access in contravention of the Detailed Area Plan.

3 Burden

The Covenantor intends for and consents to the burden of the Restrictive Covenant to:

- (a) bind all future registered proprietors of the Lot;
- (b) be created pursuant to section 129BA of the Transfer of Land Act 1893 on the certificates of title created for the Lot following the Application for New Titles being lodged with Landgate for the creation and registration of new titles;
- (c) encumber and be endorsed on the certificate of title created for the Lot, and to run with the land which is the subject of the title; and
- (d) be enforceable by the Shire.

4 Benefit

Pursuant to section 129BA of the Transfer of Land Act 1893 the Covenantor and the Shire intend the benefit of the Restrictive Covenant to be for the Shire being the local government under the Local Government Act 1995 in whose district the Lot is situated.

5 Consents under S 129BA of the Transfer of Land Act

The Registered Proprietor will obtain any consents required under s. 129BA of the Transfer of Land Act to the creation of this deed and the creation of the restrictive covenants over the Lot pursuant to that Section.

EXECUTED as a deed

**Restrictive Covenant in Gross (restriction of access Lot 9001)
Pursuant to Section 129BA of the Transfer of Land Act 1893**

Date:

20 August

2009

Parties:

BALWYN MARGARET RIVER PTY LTD ACN 107 109 455
having its registered office at Level 2, 47 Stirling Highway,
Nedlands, Western Australia ("**the Covenantor**")

SHIRE OF AUGUSTA MARGARET RIVER of 49 Town View
Terrace, Margaret River, Western Australia ("**the Shire**")

Recitals:

- A. The Covenantor is the registered proprietor of the Land, subject to certain Limitations, Interests, Encumbrances and Notifications.
- B. The Covenantor is subdividing the Land and proposes to register a Deposited Plan in respect of the Land.
- C. The Covenantor wishes to register a restrictive covenant in respect of a Lot pursuant to Section 129BA of the Transfer of Land Act so that access to Tonkin Boulevard from the Lot is restricted and so that covenant will benefit the Shire and burden the Lot.

Operative provisions:

1 Definitions

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

Land definitions

Deposited Plan means the plan described in Item 1 of the Schedule .

Detailed Area Plan means the Detailed Area Plan Rapids Landing Stage 1B for Rapids Landing Stage 1B as amended and endorsed by the Shire of Augusta Margaret River from time to time.

Land means the land described in Item 2 of the Schedule.

Limitations, Interests, Encumbrances and Notifications means the limitations, interests, encumbrances and notifications described in item 3 of the Schedule.

Lot means the lot described in item 4 of the Schedule.

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Dated *20 August* 2009

**Deed of Restrictive
Covenant pursuant to
s129BA of the TLA
Rapids Landing, Margaret
River
Stage 1B
(restriction of access)
Lot 9001 on Deposited Plan
57708**

**Balwyn Margaret River Pty Ltd
("Covenantor")**

**Shire of Augusta Margaret River
("Shire")**

Mallesons Stephen Jaques
Solicitors
Level 10, Central Park
152 - 158 St George's Terrace
PERTH WA 6000
Telephone (08) 9269 7000
Fax (08) 9269 7999

Ref: JJ:LMI: 09 5174 8453

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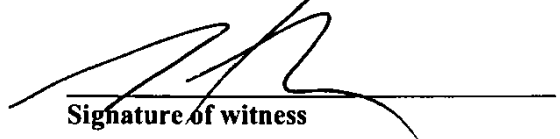
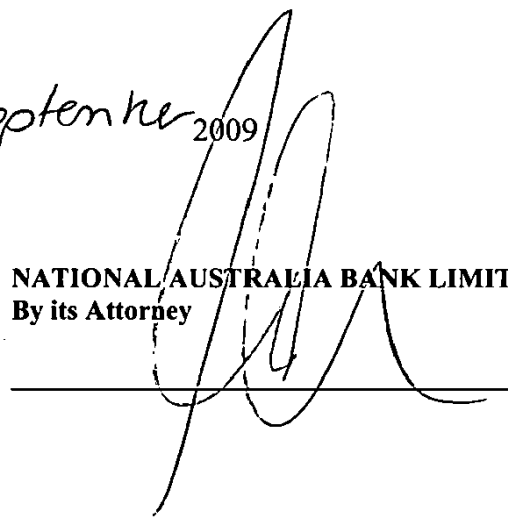
CONSENT

National Australia Bank Limited ACN 004 044 937 as Mortgagee of Mortgage K344099 consents to Section 129BA Restrictive Covenant lodged at Landgate registered number L51148 by Balwyn Margaret River Pty Ltd in respect of Lot 9001 on Deposited Plan 57708.

Dated this 14 day of September 2009

Executed by NATIONAL AUSTRALIA BANK LIMITED
by being signed by its Attorney
Aneka Manners
Director
who holds the position of Level 3
Attorney under Power of Attorney
No K117403 in the presence of:-

NATIONAL AUSTRALIA BANK LIMITED
By its Attorney



Signature of witness

Rebera Bridge
Name of witness

100 St Georges Tce
Address of witness

BANK OFFICER
Occupation of witness

MALLESONS STEPHEN JAQUES

Mr Jim Peter
Landgate
PO Box 2222
MIDLAND WA 6936

14 September 2009

Dear Jim

Document Numbers L038502, L51147 and L51148
Balwyn Margaret River Pty Ltd

I refer to your requisition notice and to our letters by fax of today's date and enclose the original form of consent by National Australia Bank Limited. ^{DO}

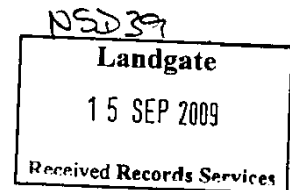
Yours sincerely



Jean Jones
Law Clerk
Direct line +61 8 9269 7087
Email jean.jones@malleasons.com

Laurence Iffla
Partner
Direct line +61 8 9269 7081
Direct fax +61 8 9269 7999

Encl



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