

## Annexure D

### YARRIMBAH HEIGHTS RESTRICTIVE COVENANTS

#### 1 BACKGROUND

- A. The Covenantor is the proprietor of the Development Site which the Seller proposes to subdivide in accordance with the Deposited Plan 429998.
- B. The Seller is desirous of creating a restrictive covenant for the benefit of the Property which will also be subject to the burden of the restrictive covenant, in order to ensure that the Property is developed and used in a uniform and aesthetically pleasing manner.

#### 2 RESTRICTIVE COVENANTS

The Seller covenants for itself and its successors in title and the registered proprietor or proprietors from time to time and for the time being of the Property covenants as follows:

- (a) NOT TO construct or allow to be constructed any residence on the Property unless:
  - (i) it complies with the Yarrimbah Heights Design Guidelines;
  - (ii) the plans and specifications have been approved by the Architectural Committee;
  - (iii) the plans and specifications have been approved by the relevant planning and local authorities;
  - (iv) the minimum living area (measured using the outside dimensions of the walls enclosing the dwelling) is 180m<sup>2</sup>, exclusive of:
    - (A) patios, balconies, verandahs or pergolas; and
    - (B) all other buildings on the Property, other than the residence, including but not limited to any garage, workshop, garden area or storage shed (**Outbuilding**);
  - (v) it is a single residential dwelling and either single or double storey (or any alteration or addition to a dwelling) and ancillary dwelling (such as a granny flat), if desired, and uses wall materials which are predominantly concrete, clay bricks, stone, limestone, rammed earth, finished or rendered masonry, timber, or painted composite fibre cement cladding or other similar materials in face work or renders;
  - (vi) the residence is a permanent non-transportable dwelling;
  - (vii) the residence has a driveway:
    - (A) at least 4m wide;
    - (B) constructed from limestone, liquid limestone, brick paving, asphalt, concrete, construction aggregate or exposed aggregate concrete;
    - (C) that connects to the completed crossover supplied by the Seller; and
    - (D) that is completed before occupation of the residence;

(viii) the primary frontage comprises a minimum of two wall materials or colours (excluding windows, doors, garage doors and roofs) and any one of the following structures fronting the street:

- (A) a gable;
- (B) a gablet;
- (C) a bay window;
- (D) a balcony;
- (E) a porch;
- (F) a portico;
- (G) a blade wall;
- (H) a deck;
- (I) a feature wall;
- (J) a projecting corbel; or
- (K) a verandah;

(ix) the roof:

- (A) has a minimum pitch of 24° to the main roof for a double pitched, hipped or gabled roof form, with eaves to a greater proportion of the front façade;
- (B) has a minimum pitch of 10° to the main roof for a mono pitched roof form and has 300mm minimum eaves on all sides of the roof. The minor areas of an attached mono pitched roof form may be considered at a pitch less than 10°;
- (C) is not flat, except if that part of the roof is flat is concealed behind a parapet and forms a lesser proportion of the overall roof area of the residence; and
- (D) is constructed of clay or concrete tiles or non-reflective metal sheeting.

Roof forms are to be assessed on an individual basis by the Architectural Committee;

(x) it contains a letterbox as installed by the Seller which is located adjacent to the driveway on the Property, is clearly numbered and cannot be removed or altered in anyway;

(xi) during construction of the residence, a large waste bin is placed on the Property, with all waste materials to be properly stored in the waste bin.

(b) NOT TO erect any residence on the Property which:

(i) does not contain a double garage or carport sufficient for at least two motor vehicles;

- (ii) comprises a garage or carport outside the main roof area that does not match or complement the residence as to pitch of roof, material, design, colour and external appearance;
  - (iii) has a roof made from zincalume;
  - (iv) has air-conditioning or cooling units, which protrude above ridge lines and gables, unless the air conditioning or cooling units are obscured from clear view from the public domain and are positioned to minimise noise impact on neighbouring residents;
  - (v) has a solar hot water unit, unless the solar hot water unit is integrated with and matches the roof profile and pitch of the residence and does not protrude above the ridge line;
  - (vi) has satellite dishes, unless they are located in such a way that they minimise their impact on the visual quality and amenity of the area;
  - (vii) has bin storage areas unless they are screened from view from the public domain, except on collection days; and
  - (viii) does not have all ground areas which are visible from the road at the front of the residence properly landscaped within three months of completion of the residence. "Properly landscaped" means that all visible areas must be cleared and either stabilised, grassed or planted and covered at least partially with a vegetated beautifying surface.
- (c) NOT TO:
- (i) construct or permit to be constructed or brought onto the Property any:
    - (A) Outbuilding whose design, appearance, external colours and textures are not integrated with and complement the residence on the Property;
    - (B) Outbuilding constructed of galvanised iron, fibrous cement, or reflective material unless the galvanised iron or fibrous cement is painted; and
  - (ii) occupy or permit the occupation or use of any Outbuilding on the Property unless and until construction of the residence has been completed.
- (d) NOT TO store sea-containers on the Property, unless approved by the City of Swan and the Seller or its agents.
- (e) NOT TO store rubbish on the Property, including but not limited to steel offcuts, car parts, car bodies and general household rubbish, unless it is invisible to public view.
- (f) NOT TO paint, alter or remove or in any way interfere with the structural integrity of any retaining wall erected on any boundary of the Property provided that this does not prevent the undertaking of any works or repairs to the retaining wall where necessary to maintain its structural integrity or its condition or where properly required by any relevant authority.
- (g) In relation to a fence, crossover and gate treatment constructed by the Seller on a boundary of the Property, NOT TO:
- (i) alter or remove the fence except as required to repair or replace the fence because of damage or wear and tear;

- (ii) repair or renew the fence with any materials which are not of the same nature, quality and standard as those originally used;
  - (iii) replace the fence with super six fencing (also known as fibro-cement or 'Hardifence').
- (h) NOT TO erect or display or permit to be erected or displayed on the Property any sign, hoarding or advertising of any description whatsoever without written approval by the Seller except:
  - (i) a builder's sign during the period of construction of a residence on the Property;
  - (ii) a 'For Sale' sign after a residence capable of occupation has been completed on the Property.
- (i) NOT TO raise, breed or keep any insects, reptiles, animals, livestock or roosters on the Property unless done so in accordance with the relevant Town Planning Scheme.
- (j) NOT TO remove or become diseased requiring removal any Habitat Trees in compliance with the Habitat Tree and Native Vegetation Community Protection Plan.
- (k) NOT TO park any commercial vehicle (which includes a truck, bus, tractor, panel van or utility), boat or caravan on the Property unless done so in accordance with the relevant Town Planning Scheme.
- (l) NOT TO repair or restore or allow any repairs or restoration work to be carried out to any motor vehicle, boat, boat trailer, trailer, caravan, aircraft or any other vehicle or any other machine on the Property unless it is behind the building line of the residence and is invisible to public view;
- (m) NOT TO use or open or allow to be used or opened, any residence erected upon the Property for display purposes without the consent of the Seller which will be granted at the Seller's absolute discretion; and
- (n) NOT TO alter, block or restrict the flow of water through the drainage lines of the local stormwater drainage system located on the Property, or allow or permit:
  - (i) the drainage lines of the local stormwater drainage system located on the Property to be altered or blocked; or
  - (ii) the flow of water through the local stormwater drainage system located on the Property to be restricted.

### 3 DEFINITIONS

#### 3.1 Definitions

- (a) For the purposes of this Annexure D:
  - (iii) **Architectural Committee** means the committee established by the Seller to ensure uniform and aesthetically pleasing developing of the lots for the duration of this restrictive covenant;
  - (iv) **Habitat Trees** has the same meaning contained in the Habitat Trees and Native Vegetation Community Protection Plan;

- (v) **Habitat Trees and Native Vegetation Community Protection Plan** means the document of that name published by Coterra Environment dated December 2020; and
- (vi) **Yarrimbah Heights Design Guidelines** means the guidelines contained in the 'Yarrimbah Heights Design Guidelines 2023' published by QUBE Property Group.

(b) Unless the context requires otherwise, all capitalised terms not defined in this Annexure D have the same meaning as in the Terms and Conditions contained in Annexure A of the Contract.

#### **4 BURDEN OF RESTRICTIVE COVENANTS**

The burden of the covenants in this Annexure D shall run with the Property to the intent that such covenants shall bind the Seller its successors and assigns of the Property and shall be for the benefit of the Property and the Seller and its successors and assigns.

#### **5 TERM OF RESTRICTIVE COVENANT**

The covenants in this Annexure D expire on and are of no force and effect after 31 December 2035 except in relation to any breaches incurred prior to that date.

#### **6 SEPARATE AND DISTINCT**

Each restrictive covenant in this Annexure D is a separate and distinct covenant and if any covenant in this Annexure D or its application to any personal circumstance is or becomes invalid or unenforceable then the remaining covenants of this Annexure D will not be affected and each remaining covenant will be valid and enforceable to the fullest extent permitted by law.

#### **7 SIGNING OF DOCUMENTS**

The Seller will sign any other documents and do anything reasonably required to give effect to the covenants in this Annexure D and in particular will sign any other document required to register the covenants contained in this Annexure D against the Certificate of Title for the Property.

#### **8 CONSENTS UNDER SECTION 136E OF THE TRANSFER OF LAND AMENDMENT 1996**

Where any Consents are required under the provisions of Section 136E of the TLA the Seller shall obtain such consents to the covenants contained in this Annexure D and the creation of the Restrictive Covenant.