

HENLEY BROOK PRIVATE ESTATE, WA - STAGE 3

RESTRICTIVE COVENANTS

"The registered proprietor for itself, its successors in title, and its transferees and assigns, covenants and agrees with the Transferor, its successors in title, and its assigns, to the intent that the same shall run at law and in equity with the Lot:

1. Dwelling features

not to construct, erect or install or permit to be constructed, erected or installed on a Lot that has a single street frontage, a dwelling:

- 1.1 that is not designed in compliance with the mandatory requirements of the Guidelines;*
- 1.2 that does not have the main entry door or defined entry structure and approach clearly visible from the street;*
- 1.3 that does not have at least one habitable room window overlooking the Primary Street and/or public reserve where identified by the Transferor;*
- 1.4 that has publicly visible elevations that are not carefully articulated by way of the inclusion of one or more of the following acceptable integrated feature elements:*
 - (a) a veranda with a separate roof and supporting posts, pillars, or piers;*
 - (b) an entry feature such as a portico (minimum 1 pier/post), masonry gateway wall, or entry pergola;*
 - (c) a balcony;*
 - (d) a projecting blade wall (minimum 500mm in width projecting at least 300mm above the eaves);*
 - (e) a built-in planter box (at least 1m in length) that is a minimum of two (2) courses above finished floor level;*
 - (f) a roof feature such as a gambrel, end gable, panel clad spandrel to a skillion roof; and/or*
 - (g) a window hood/canopy; and*
- 1.5 that does not have main windows that are of a square or vertical proportion and that are consistent in shape and style (minor horizontal windows can be used in feature or minor wall sections only).*

2. Dwelling features for Corner Lots

not to construct, erect or install or permit to be constructed, erected or installed on a Corner Lot:

- 2.1. a dwelling where the materials and colours comprising the Primary Elevation do not continue to the side return fence location to provide consistency in appearance;*
- 2.2. a dwelling that does not provide passive surveillance of all street front boundaries by not including a window opening to a habitable room that has a clear view of the street; and*
- 2.3. in the case of any dwelling that is to have a Secondary Street Frontage, a dwelling where both of the street front elevations do not meet the mandatory requirements for the Primary Elevation under the Guidelines.*

3. Garages, Driveways and Storage

3.1. not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling that does not possess a garage or a carport (whether single or double) that:

- (a) is located under the main roof of the dwelling;*
- (b) is constructed in the same materials as the dwelling;*
- (c) matches or complements the dwelling in respect of the pitch of the roof, materials used and the design and external appearance, including colour and the quality of construction;*
- (d) is fitted with a remote controlled sectional door facing the street (so as to completely screen the interior of the garage or carport from the street);*
- (e) in the case of a carport only, is set back 0.5m behind the main dwelling; and*
- (f) in the case of a garage only, is set back behind the dwelling;*

3.2. not to construct, erect or install or permit to be constructed, erected or installed on the Lot a driveway or crossover that:

- (a) is comprised or constructed of gravel (including pea gravel or compacted gravel), asphalt or grey concrete; or*
- (b) does not have a 90mm diameter storm water pipe provided under the driveway to allow for future irrigation;*

- 3.3. *not to occupy or allow any person to occupy any dwelling on the Lot unless the driveway and crossover have been completed to the Seller's satisfaction;*
- 3.4. *not to remove any street trees to enable the construction, erection or installation of the driveway and crossover on the Lot; and*
- 3.5. *not to construct, erect or install or permit to be constructed, erected or installed on the Lot a waste bin store area unless it is concealed from public view (for example, by adding storage areas within garages whilst maintaining the minimum vehicle parking requirement or by providing usable access to a screened area either behind the garage or the wing fence either side of the dwelling).*

4. Roofs

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- 4.1. *a dwelling with a roof that:*
 - (a) *does not possess a traditional roof pitch of at least 24.5 degrees, provided however that minor integrated roofs, such as verandahs, may be lower; and*
 - (b) *has a skillion roof pitch of less than 5 degrees; or*
- 4.2. *a dwelling that has a minor area of flat roof which is not screened by a parapet wall or other façade element.*

5. Elevations

not to construct, erect or install or permit to be constructed, erected or installed on the Lot a dwelling (single or two storey) that does not possess Overhanging Eaves to all elevations, provided that the following are exempt from this requirement:

- (a) *garages;*
- (b) *carports; and*
- (c) *open structures such as alfresco areas.*

6. Fencing

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

- 6.1. *front fencing, which viewed from the street or a public space:*
 - (a) *is higher than 0.9 metres above the natural ground level of the Lot;*

(b) *is not at least 50% visually permeable above the height of 300mm above the natural ground level of the Lot; and*

(c) *is not consistent with or complementary to the Primary Elevation's materials and colours;*

6.2. *side fencing (on common boundaries) forward of dividing fences that:*

(a) *is not accompanied by front fencing;*

(b) *is higher than 0.9 metres above the natural ground level of the Lot;*

(c) *is not at least 50% visually permeable above the height of 300mm above the natural ground level of the Lot; and*

(d) *is not consistent with or complementary to the Primary Elevation's materials and colours;*

6.3. *return and dividing fences (side and rear) that:*

(a) *do not commence 0.5 metres behind the building line; and*

(b) *are not constructed of 'Colorbond'® that is of the colour 'Pale Eucalypt';*

6.4. *fences on the Secondary Street boundary of a Corner Lot that:*

(a) *do not commence 0.5 metres behind the primary street setback;*

(b) *are not constructed of Colorbond® that is of the colour 'Pale Eucalypt'; and*

(c) *exceed 1.8 metres in height above the natural ground level of the Lot.*

7. Existing Feature Fencing

not to alter any existing feature estate fencing on any Lot installed by the Developer without the prior written approval of the Transferor.

8. Colours and materials

not to construct, erect or install or permit to be constructed, erected or installed on the Lot:

8.1. *a dwelling which does not have a Primary Elevation comprised of a minimum of two different wall materials and two different wall colours (excluding colours and materials used on the roof, windows and any doors); or*

8.2. *a dwelling which does not use light or neutral base colours as the dominant colours on the Primary Elevation (primary colours and dark colours such as grey, brown, black, and purple may be used with the Transferor's prior written approval but not as the dominant colour and the Transferor may refuse to approve the use of such bright primary and dark colours if their use is not in keeping with the balance of the estate of which the Lot forms part).*

9. Outbuilding, TV, and other antennae and services

9.1. *not to construct, erect or install or permit to be constructed, erected or installed on the Lot without the prior written approval of the Transferor, an Outbuilding, unless the Outbuilding is concealed from public view, or which, in the Transferor's opinion, is designed to complement the dwelling;*

9.2. *not to construct, erect or install or permit to be constructed, erected or installed on the Lot:*

(a) *any pipes, wired services, clothes drying areas, hot water storage tanks and other such service items in a location in which they can be seen from immediately adjacent streets (photovoltaic panels due to their orientation requirements are exempt);*

(b) *not to install or erect or permit the installation or erection of a TV antenna, satellite, or cable dish or radio mast:*

(i) *except in accordance with the manufacturer's instructions;*
and

(ii) *in a location in which it can be seen from immediately adjacent streets; or*

(c) *gas and electricity meter boxes in locations in which they can be seen from immediately adjacent streets, unless the boxes are painted to match the adjacent wall colour of the dwelling, garage, or carport.*

10. Signage

10.1. *subject to clause 10.2, not to erect or display on the Lot any sign hoarding or advertising of any description whatsoever, except for professional signage advertising the sale or lease of a fully completed dwelling constructed on the Lot. Any sign or advertising material erected or displayed on the Lot in breach of this covenant may be removed without notice by the Transferor's Agent.*

10.2. *clause 10.1 does not apply to any Lot that is used as a Display Home pursuant to an agreement with the Developer.*

11. No disrepair

not to permit or allow the Lot or any part of it, including any dwelling, to fall into a state of disrepair or disorder.

12. *Parking Large Vehicles, etc.*

not to park any Commercial Vehicle on the Lot unless it is not visible from the street.

13. *Duration of Restrictive Covenants*

The above Restrictive Covenants shall continue for the benefit of and run at law and in equity with every allotment on the plan of subdivision of which the Lot forms part until 31 December 2037 to the intent that the same shall bind the registered proprietor, its transferees, executors, administrators, successors in title and assigns for the benefit of the registered proprietor or proprietors of the remainder of the Lot comprised in the said plan of subdivision or any part or parts thereof.

14. *Definitions*

In these Restrictive Covenants the following words have the following meanings:

City means the local government of the City of Swan and any replacement of it;

Commercial Vehicle means any commercial vehicles including trucks, utilities, caravans, boats, trailers, or any other mobile machinery;

Corner Lot means any Lot that is situated on the corner, or intersection, of a Primary Street and Secondary Street;

Developer means Mirvac (WA) Pty Ltd (ACN 095 901 769) (ABN 81 095 901 769) of Level 39, 108 St Georges Terrace, Perth, Western Australia;

Display Home means a dwelling that is constructed, decorated, and, usually, furnished for prospective homebuyers to view;

dwelling means a permanent non-transportable private residence;

Guidelines means the 'Henley Brook Private Estate Design Guidelines' and which comply with the City's specifications;

Outbuilding means a shed, storeroom, studio, or workshop, or granny flat or other such structure that does not comprise part of the main dwelling;

Overhanging Eaves means eaves that are not less than 350 millimetres in width;

Primary Elevation mean the elevation of the dwelling which is usually inclusive of the main entry and the majority of its architectural features and which faces or is oriented towards the Primary Street;

Primary Street means the street that the Lot primarily fronts or faces;

Secondary Street means any street that the Lot does not primarily front or face;

Secondary Street Frontage means a dwelling design which, with the approval of the City:

- (a) uses the Secondary Street as the dwelling's primary frontage by locating both the vehicular and pedestrian access points on the Secondary Street; or
- (b) locates the pedestrian access point on the Primary Street and the vehicular access point on the Secondary Street, or vice versa; and

Transferor's Agent means Mirvac Real Estate Pty Ltd (ACN 003 342 452) of Level 39, 108 St Georges Terrace, Perth, Western Australia.

