

Section 136D Deed of Restrictive Covenant

Port Coogee: Stage 1 - Phase 5

mdk | mony de kerloy

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2. COVENANTS

The Burdened Owner pursuant to section 136D of the *Transfer of Land Act 1893* covenants as the person registered as the proprietor of an estate in fee simple in the Burdened Land that the Burdened Owner will not:

- (a) construct a dwelling on the Burdened Land which is transportable or otherwise not of a permanent nature;
- (b) develop the Burdened Land or construct a dwelling on the Burdened Land unless such development or construction is in compliance with the requirements of the Port Coogee Design Guidelines as adopted by the Burdened Owner from time to time in relation to the Burdened Land;
- (c) develop the Burdened Land or construct a dwelling on the Burdened Land unless such development or construction is in compliance with the Detailed Area Plan adopted by the City of Cockburn in relation to the Burdened Land;
- (d) construct a garage with a roof of any material other than the same material used for the roof of the dwelling;
- (e) construct a carport on the Burdened Land;
- (f) use any roof materials in connection with any dwelling on the Burdened Land other than concrete tiles, clay tiles, slate, Colorbond metal or zincalume metal which has been painted or otherwise coated with a non-reflective surface;
- (g) install any solar hot water heater which does not fit the roof profile of the dwelling or which is elevated at an angle to the roof profile or which does not otherwise match or complement the dwelling;
- (h) install any solar hot water heater tanks which are visible from the street in front of the dwelling;
- (i) erect any satellite dishes or antennas of any kind on the front facades of any building on the Burdened Land or forward of the building line;
- (j) erect any radio, television, telecommunication or other tower on the Burdened Land;
- (k) construct any outbuilding on the Burdened Land between a dwelling and primary street unless it is not visible from the street in front of the dwelling or unless, if visible from any other street, it is constructed of predominantly brick or Colorbond material and in the same colour scheme as the dwelling constructed on the Burdened Land;
- (l) install a clothes line or rain water tank which is visible from any street;
- (m) construct any fence or wall from the dwelling on the Burdened Land to the boundary of an adjoining Lot unless:
 - (i) the wall or fence is not visible from any street and is behind the building line; or
 - (ii) the fence or wall is constructed of predominantly brick or Colorbond material;
- (n) construct any fence which is visible from the street unless it is more than five (5) metres back from the building line of adjacent road frontages;

- (o) allow any boundary fence to fall into a state of disrepair;
- (p) allow any building materials or rubbish to remain at the front of the dwelling constructed on the Burdened Land or otherwise in a place visible from the street for longer than one (1) month after the Practical Completion of the dwelling;
- (q) leave any vacant area or the front of the Burdened Land in an unlandscaped condition for longer than three (3) months after the Practical Completion of the dwelling. For the purpose of this covenant "unlandscaped condition" means that the unlandscaped portion of the Burdened Land is not grassed, planted with vegetation or otherwise beautified by natural or artificial means;
- (r) display any advertising or business sign on the Burdened Land or in the front window of or on the walls of the dwelling on the Burdened Land, except for a professionally produced real estate sign associated with the proposed sale of the Burdened Land;
- (s) erect a "For Sale" sign on the Burdened Land before a dwelling has been constructed on the Burdened Land;
- (t) carry out or allow the carrying out of repairs to any vehicle, motorcycle, trailer, boat or caravan on the Burdened Land unless in a position not visible from any street or any lot adjacent to the Burdened Land;
- (u) park or store (or allow to be parked or stored) any vehicle of a commercial nature, such as a truck, utility, caravan, trailer, boat or any mobile machinery (except for commercial vehicles in use by non-resident tradespersons during the normal course of business) unless any such commercial vehicle is housed or contained wholly within a garage on the Burdened Land;
- (v) store any rubbish disposal container in any place within the Burdened Land which is visible from any street (other than at times when the container is put out for collection when it will be removed as soon as possible after collection);
- (w) construct any dwelling on the Burdened Land without, at the same time, constructing a letter box in the same material and finish as the walls of the dwelling;
- (x) construct any dwelling on the Burdened Land:
 - (i) without two (2) or more clearly defined wall materials neither of which is greater than 80% of the front elevation (not including windows);
 - (ii) which has eaves, except where nil lot boundaries with less than 450mm overhang; and
 - (iii) with air-conditioning units visible from the primary street;
- (y) construct on the front boundary of the Burdened Land a wall or fence other than a masonry wall not greater in height than 0.5 metres above the natural ground surface which masonry wall must return along the side boundary of the Burdened Land to the building set back and incorporate any letterbox and home number;
- (z) construct a fence on the top of any retaining wall where the retaining wall is greater than 0.9 metres high along the front boundary of the Burdened Land unless the fence is a 1.1 metre high open decorative steel fence with balustrades;
- (aa) construct a fence on the boundary of the Burdened Land adjacent to a side street unless the fence is a 1.8 metre high semi permeable screen fence which is at least 70% permeable using timber or aluminium battens or louvres;

- (bb) construct any fence on the boundary of the Burdened Land adjacent to a laneway unless the fence is a 1.8 metre high semi permeable screen fence which is at least 70% permeable using timber or aluminium battens or louvres;
- (cc) construct any fence on any boundary of the Burdened land using fibro cement material; and
- (dd) construct any fence along the rear boundary of the Burdened Land which adjoins another lot unless that fence is 1.8 metres high and constructed of masonry or with a rendered figure.

3. BURDENED OF COVENANT

The Burdened Land is burdened by the Covenants.

4. BENEFIT OF COVENANT

The Benefited Land is benefited by the Covenants.

5. TIME LIMIT

The Covenants shall expire and cease to have effect from and including 1 July 2017.

6. BURDENED OWNER'S ACKNOWLEDGMENTS


- (a) The Burdened Owner acknowledges that the burden of the Covenants runs with the Burdened Land and is for the benefit of every Benefited Owner from time to time.
- (b) The Burdened Owner acknowledges that each of the Covenants is separate from the other and therefore if any of the Covenants becomes invalid or unenforceable then the remaining Covenants will not be affected and each of the remaining Covenants will be valid and enforceable to the fullest extent permitted by law.

EXECUTED AS A DEED.

Executed as a deed by
PORT CATHERINE DEVELOPMENTS PTY LTD
(ACN 070 096 927)
BY ITS ATTORNEY
RICHARD FULCHER UNDER
POWER OF ATTORNEY NUMBER J928127
in the presence of:

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)


RICHARD FULCHER


Witness Signature

Belinda Kounis
Witness Name

Contract Administrator
Witness Occupation

2/115 Cambridge St, West Leederville
Witness Address

MORTGAGEE'S CONSENT

BOS INTERNATIONAL (AUSTRALIA) LTD (ACN 066 601 250) being a mortgagee hereby consents to this deed and the grant of the restrictive covenants contained herein:

Executed by
BOS INTERNATIONAL (AUSTRALIA) LIMITED
(ACN 066 601 250)
by being signed by its attorney

under power of attorney dated
who declares that he/she has no notice of
revocation of that Power, in the presence of:

Signature of Attorney

Signature of Witness

Full Name of Witness

EUREKA 1 PROJECT 3 PTY LTD (ACN 110 817 528) being a mortgagee hereby consents to this deed and the grant of the restrictive covenants contained herein:

Executed by
EUREKA 1 PROJECT 3 PTY LTD
(ACN 110 817 528)
in accordance with section 127 of the
Corporations Act 2001 (Cth):

Signature of Director

Signature of Director/Secretary

Full Name of Director (Print)

Full Name of Director/Secretary (Print)