

## “ANNEXURE D”

### APSLEY ESTATE

#### RESTRICTIVE COVENANTS FORMING PART OF THE CONTRACT FOR SALE OF LAND OR STRATA TITLE BY OFFER AND ACCEPTANCE OF LOT NO \_\_\_\_\_

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##### 1. BACKGROUND

For the purposes of enhancing the amenity of the Apsley Estate of which the Property is a part, the Buyer acknowledges that:

- 1.1 During the period of 10 years from the date of registration of the Deposited Plan at Landgate the Buyer will not construct, erect or externally renovate any building or other building structure appendage or improvement of any kind (including, but not limited to, outbuildings, car parking areas, structures, landscaping, undercover and open storage areas, fences, walls and television radio and other antennae) on the Property without first obtaining the prior written approval of the Architectural Committee (which approval is not to be unreasonably withheld).
- 1.2 The Seller encourages the Buyer to use its best endeavours to construct a residence that adopts Energy Efficient, Water-wise and Quiet Home Design principles.
- 1.3 The Property is sold subject to the restrictions set out below.
- 1.4 The transfer of the Property will contain covenants in the following form or to the following effect.

##### 2. RESTRICTIVE COVENANTS

- 2.1 The Buyer covenants with the Seller that no residence shall be erected on the Property unless:
  - 2.1.1 it complies with the Apsley Design Guidelines published by the Seller, a copy of which is attached to the Contract as "Annexure F";
  - 2.1.2 the plans and specifications have been approved by the Architectural Committee;
  - 2.1.3 the plans and specifications have been approved by the relevant Authorities;
  - 2.1.4 For lots less than or equal to 300 m<sup>2</sup>, the minimum living area (measured using the outside dimensions of the walls enclosing the dwelling) is 75m<sup>2</sup>, exclusive of patios, balconies, verandahs, storage areas, workshops, pergolas and any attached garage or outbuilding. For lots greater than or equal to 301 m<sup>2</sup>, the minimum living area (measured using the outside dimensions of the walls enclosing the dwelling) is 120m<sup>2</sup> exclusive of patios, balconies, verandahs, storage areas, workshops, pergolas and any attached garage or outbuilding, unless the Lot is a Multi Residential Lot;

- 2.1.5 it is either a single or double storey dwelling (or any alteration or addition to a dwelling) and uses wall materials which are predominantly concrete, clay bricks, stone or other similar materials in face work or renders or alternative materials as approved by the Architectural Committee.
- 2.1.6 the residence is a non transportable residence;
- 2.1.7 the residence has a driveway:
  - 2.1.7.1 at least 4m wide;
  - 2.1.7.2 constructed from brick paving, liquid limestone or exposed aggregate concrete;
  - 2.1.7.3 does not cut through any public footpath;
  - 2.1.7.4 which is designed to enable landscape irrigation to be installed beneath the driveway
  - 2.1.7.5 that is completed before occupation of the residence; and
  - 2.1.7.6 not constructed of grey, painted or in situ concrete;
- 2.1.8 the primary frontage comprises a minimum of two different materials provided that each material comprises no less than 15% of the total front elevation wall (excluding windows, roof and garage door) and at least one of the materials used is either rendered brickwork, feature tiling, stone cladding, timber cladding or any other feature approved by the Architectural Committee;
- 2.1.9 the primary frontage contains the front door (which must not be accessed from the garage) and windows with a clear view of the adjoining street;
- 2.1.10 the primary frontage includes a verandah, portico or porch with a minimum depth of 1.5 metres;
- 2.1.11 the primary frontage must comprise one of the following structures fronting the street:
  - 2.1.11.1 a gable;
  - 2.1.11.2 a roof gable;
  - 2.1.11.3 a bay window;
  - 2.1.11.4 a balcony;
  - 2.1.11.5 a planter box;
  - 2.1.11.6 a blade wall; or
  - 2.1.11.7 a projecting feature wall;
- 2.1.12 the roof:

- 2.1.12.1 has a minimum pitch of 22° to the main roof for a modulated roof form where the primary street frontage is more than 10m;
- 2.1.12.2 has a minimum pitch of 24° to the main roof for a singular roof form where the primary street frontage is 10m or less;
- 2.1.12.3 has a minimum pitch of 5° to the main roof for a skillion roof form;
- 2.1.12.4 has a maximum pitch of 15° to the main roof for a skillion roof form;
- 2.1.12.5 contains gutters and downpipes of a material which complements the residence; and
- 2.1.12.6 is constructed of a single material and colour and of clay or concrete tiles or custom orb metal deck sheeting not including zincalume or any other highly reflective material or other material which is a vivid colour.
- 2.1.13 the rear and side boundary fencing is constructed in the Colorbond colour "Riversand" (or if "Riversand" is discontinued by Colorbond, then in the colour most closely matching "Riversand") and is at least 1.8m high;
- 2.1.14 in the case of a wall or fence from the residence to the boundary of an adjoining lot, that wall or fence is at 1.8m high and constructed from materials consistent with the rear and side boundary fencing, and set back at least 2m from the corner of the residence;
- 2.1.15 the residence or any other improvements constructed on the Property comply with the Local Development Plan (if applicable);
- 2.1.13 it contains a letterbox which is located adjacent to the driveway on the Property, is clearly numbered and which both matches and complements the residence unless the frontage is determined otherwise in the Local Development Plan; and
- 2.1.14 during construction of the residence, a large waste bin or enclosure is placed on the Property, with all waste materials to be properly stored in the waste bin.
- 2.2 No residence shall be erected on the Property which:
  - 2.2.1 does not contain an enclosed double garage (not a carport):
    - 2.2.1.1 forward of the dwelling alignment to a maximum of 1m for two storey dwellings;
    - 2.2.1.2 which is at least 5.4m wide and sufficient for at least two motor vehicles side by side, or unless otherwise stated in the Local Development Plan; and
    - 2.2.1.3 which is set back 4.5 metres from the primary street and 1.5 metres from the secondary street.
  - 2.2.2 comprises a garage outside the main roof area that does not match or complement the residence as to pitch of roof, material, design, colour and external appearance;
  - 2.2.3 comprises a triple garage, unless approval has first been granted by the Seller;
  - 2.2.4 has a roof made from zincalume;
  - 2.2.5 has fencing, which extends forward of the front building line of the residence unless expressly permitted by the Seller. For the purposes of these covenants, the front building line of the residence is:
    - 2.2.5.1 the line of the front face of the front wall of the residence that contains a major opening;
    - 2.2.5.2 where the front building line of any residence on a lot adjoining the Property is constructed behind the front building line of the residence, then the front building line of the residence is the same as the front building line of the residence on the lot adjoining the Property; or
    - 2.2.5.3 any other front building line that the Seller in its absolute direction determines;
  - 2.2.6 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;
  - 2.2.7 has a solar hot water unit or solar panels, unless the solar hot water unit or solar panels are integrated with and matches the roof profile and pitch of the residence and does not protrude above the ridge line and the solar hot water unit is screened from public view;
  - 2.2.8 has TV antennas or radio masts, unless they are screened from public view;
  - 2.2.9 has rainwater tanks, unless they are screened from public view;
  - 2.2.10 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;
  - 2.2.11 has bin storage areas unless they are screened from view from the public domain, except on collection days;
  - 2.2.12 has clothes drying areas which are not screened from public view;
  - 2.2.13 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 including the verge. "Properly landscaped" means that all visible areas must be cleared and grassed, planted or otherwise covered with a vegetated

- beautifying surface and have a reticulated watering system installed;
- 2.2.14 does not have eaves of a minimum of 450mm on a portion of the front and side elevations, with the exception of the garage;
- 2.2.15 does not include at least 450mm articulation in floor plan and roof plan required for primary elevation (excluding the garage where the primary frontage of the Property is 12.5 metres or more); and
- 2.2.16 has window roller shutters on the primary frontage.
- 2.3 The Buyer shall not construct or permit to be constructed or bring onto the Property any:
- 2.3.1 outbuilding over 10m<sup>2</sup> in floor area and over 500mm in height above any fence whose design, appearance and external colours and textures are not integrated with and substantially match the residence on the Property;
- 2.3.2 outbuilding constructed of galvanised iron or painted fibrous cement walls except for any shed which has a floor area of less than 10m<sup>2</sup>, a maximum height of less than 500mm above any fence and which is not visible from any road or other public area;
- 2.3.3 outbuilding constructed of fibrous cement which is not painted and has a floor area of less than 10m<sup>2</sup> and a height of less than 2m.
- 2.4 The Buyer will not change the average finished ground level of the Property more than 200mm from the original median finished level of the Property without the consent of the Seller, provided that this does not include minor changes to parts of the Property for construction of swimming pools or spa baths, gardening and related landscaping purposes.
- 2.5 The Buyer will not 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.
- 2.6 In relation to a fence constructed by the Seller on a boundary of the Property, the Buyer will not:
- 2.6.1 alter or remove the fence except as required to repair or replace the fence because of damage or wear and tear; or
- 2.6.2 repair or renew the fence with any materials which are not of the same nature, quality and standard as those originally used.
- 2.7 The Buyer will not erect or display or permit to be erected or displayed on the Property any sign, hording or advertising of any description whatsoever.
- 2.8 The Buyer will not raise, breed or keep or permit to be raised, bred or kept any insects, reptiles, animals, livestock or poultry on the Property or any part thereof provided that this restriction shall not operate to prevent the Buyer from keeping up to four domestic pets on the Property.
- 2.9 In the case of all corner lots, no residence shall be erected on the Property unless:
- 2.9.1 the appearance of the front façade extends to the side street;
- 2.9.2 the residence provides at least one major opening facing the direction of the secondary street, such as a window;
- 2.9.3 the residence's secondary street elevation matches the primary street elevation in colours, materials, openings and/or roof form for a minimum distance of 2m from the truncation of the corner of the Lot; and
- 2.9.4 the side boundary fencing finishes at least 2m from the predominant truncation (excluding laneway truncations) of the corner of the Lot unless otherwise approved by the Seller in which case the Seller will only approve visually permeable fencing.
- 2.10 In the case of all lots adjoining a laneway, no residence shall be erected on the Property unless:
- 2.10.1 vehicular access to the Property is from the laneway;
- 2.10.2 the door to the garage does not project into the laneway when opened or closed;
- 2.10.3 the front of the residence constructed faces the primary street and not the laneway; and
- 2.10.4 the laneway elevation complements the remainder of the residence.
- 2.11 The Buyer will not park any commercial vehicle (which includes a truck, bus, tractor, panel van or utility), boat or caravan on the Property unless it is invisible to public view.
- 2.12 The Buyer will not repair or restore or allow any repairs or restoration work to be carried out to any motor vehicle, boat, boat trailer 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.
- 2.13 The Buyer will not 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.

### 3. SEPARATE AND DISTINCT

Each restrictive covenant in clauses 1 and 2 is a separate and distinct covenant and if any covenant in clause 1 or 2 or its application to any personal circumstance is or becomes invalid or unenforceable then the remaining covenants of clauses 1 and 2 will not be affected and each remaining

covenant will be valid and enforceable to the fullest extent permitted by law.

#### **4. SUBSEQUENT OWNERS**

The burden of the covenants in this Annexure D shall run with the Land for the benefit of every other lot within the applicable stage of the Estate. These covenants shall be enforceable against the Buyer and every subsequent registered proprietor of the Land, by the Seller and every subsequent registered proprietor of any other lot within the applicable state of the Estate.

#### **5. ENFORCEMENT OF COVENANTS**

The Buyer acknowledges it is not the responsibility of the Seller to enforce the covenants in this Annexure D against any owner of any land in Apsley Estate and the Seller has no obligation to the Buyer to deal with any breach or alleged breach of the covenants in this Annexure D by the owner of any other land in the Apsley Estate. The Buyer must not make any claim against the Seller in relation to any matter associated with the enforcement or non-enforcement of the covenants in this Annexure D.

#### **6. TERM OF RESTRICTIVE COVENANTS**

The covenants in this Annexure D expire on and are of no force and effect except in relation to any antecedent breached after 31 March 2034.

#### **7. TERMS USED**

Any terms used herein which are defined in the Special Conditions comprising "**Annexure A**" to the Contract will apply herein, unless the context otherwise requires.