COVENANT

FORM 31 Version 3 Page 1 of 2

Dealing Number

OFFICE USE ONLY

Lodger (Name, address, email & phone number)

Lodger Code

Privacy Statement

Collection of this information is authorised by the <u>Land Title Act 1994</u> and the <u>Land Act 1994</u> and is used to maintain the publicly searchable registers in the land registry. For more information about privacy in DERM see the department's website.

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PENFOLD WATERFORD PTY LTD A.C.N. 607 570 294

2. Description of Covenant/Lot on Plan

COVENANT A IN LOT 17 ON SP324317 COVENANT B IN LOT 19 ON SP324317 Title Reference

TO ISSUE FROM 14285150 TO ISSUE FROM 14285150

3. Covenantee

BRISBANE CITY COUNCIL

4. Description of Covenant (include reference to relevant section of legislation)

Pursuant to Section 97A(3)(b)(i) of the Land Title Act 1994 in accordance with the terms of the attached schedule.

5. Execution

The Covenantor being the registered owner of the lot described in item 2 covenant with the Covenantee in respect of the covenant described in item 4 and the attached schedule and document no. 713219757.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

PENFOLD WATERFORD PTY LTD A.C.N. 607 570 294

signature) (QQ)
full name		/ Sile Tilector
Witnessing Officer (Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	27 , Q , 2.\ Execution Date	- Director/Secretary Covenantor's Signature
signature		
full name		
Witnessing Officer (Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	/ / Execution Date	Covenantee's Signature BRISBANE CITY COUNCIL

QUEENSLAND TITLES REGISTRY Land Title Act 1994, Land Act 1994 and Water Act 2000

Title Reference to issue from 14285150

Native Plant and Animal Covenant "Schedule"

The Covenantor and the Covenantee agree that they enter into a Covenant over the Land in Item 2 of the Form 31 as it relates to the conservation and protection of Native Plants and Native Animals within the identified Environmental Protection Zone (EPZ) on the site on the terms and conditions set out in standard instrument dealing number 713219757 ("Dealing"). The parties agree that terms of the Dealing form part of this Instrument, as supplemented by the following:

A. The Following Definitions shall be inserted at clause 1.1 of the Dealing as it relates to the Covenant:

"Development Approval A005256667" means the development approval over the land having file number A005256667, available for public inspection at the business address of the Covenantee from time to time, which as at the date of this document is Brisbane City Council, 266 George Street, Brisbane QLD 4000.

"Development Approval A005607267" means the development approval over the land having file number A005607267, available for public inspection at the business address of the Covenantee from time to time, which as at the date of this document is Brisbane City Council, 266 George Street, Brisbane QLD 4000.

"Environmental Protection Zone" means the area identified as 'Environmental Protection Zone' shown on the Approved Tree Retention/Removal Plan (drawing no. 9698-E-01-TRRP-B) dated 4/08/2020 (amended in red) and Tree Schedule Sheets 1 – 4 (drawing no. 9698-E-01-TRRP-B page 1 of 4 to page 4 of 4 (amended in red 04/08/2020)).

"Rehabilitation Plan" means the approved 'Rehabilitation Plan', drawings 9698 E 01 RMP C -09 RMP C & 9698 E A01-A04 RMP Weed C, prepared by Saunders Havill Group, as amended in red by Council on 14 December 20200, approved as part of the Rehabilitation Plan under the Development Approval A005607267.

- B. The following clause shall be inserted after clause 3.4
 - 3.5 The Covenantor and Covenantee agree that the Covenantor will ensure appropriate maintenance of vegetation and ecological features including:
 - (a) retention of vegetation and tree hollows;
 - (b) maintenance of nesting boxes;
 - (c) ongoing weed control; and
 - rehabilitation in accordance with an approved Rehabilitation Plan and/or Koala Offset Management Plan for the site (including access arrangements for the maintenance period of the approved plans).
 - 3.6 The Covenantor and Covenantee agree that the Covenantor will ensure maintenance of fauna movement fences and pet exclusion fences in accordance with the approved plans.
 - 3.7 The Covenantor and Covenantee agree that the Covenantor will ensure the exclusion from the covenant area of all buildings and structures (including swimming pools, tennis courts, retaining walls), open space, all associated facilities, landscaping, on-site stormwater infrastructure, on-site wastewater treatment, all areas of disturbance (including excavation and filling), on-site parking, access and manoeuvring areas other than a perimeter fence for the lot, unless otherwise specified in the Development Approval A005256667, Development Approval A005607267 or subsequent approvals from Council.

Land Title Act 1994, Land Act 1994 and Water Act 2000

QUEENSLAND LAND REGISTRY

GENERAL REQUEST

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Duty Imprint



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Land Act 1994 and the Water Act 2000 and is used to maintain the publicly searchable registers in the land registry and the water register. For more information about privacy in NR&W see the department's website.

Nature of request

REQUEST TO REGISTER STANDARD TERMS DOCUMENT FOR STATUTORY COVENANT UNDER SECTION 97A(3)(b)(i) of the LAND TITLE **ACT 1994**

Lodger (Name, address, E-mail & phone number)

David Askern, Chief Legal Counsel for

Brisbane City Council

266 George Street, Brisbane Qld 4000 Email: karen.jacobsen@brisbane.qld.gov.au

Ref: OP 290990

Tel: (07) 3403 5313

Lot on Plan Description **NOT APPLICABLE**

County

Parish

Title Reference

Lodger

Code

259A

Registered Proprietor/State Lessee

NOT APPLICABLE

Interest

NOT APPLICABLE

Applicant

BRISBANE CITY COUNCIL

Request

I hereby request that: PURSUANT TO SECTION 169 OF THE LAND TITLE ACT 1994 THE ATTACHED STANDARD TERMS DOCUMENT FOR BRISBANE CITY COUNCIL STATUTORY COVENANTS BE REGISTERED

Execution by applicant

LESUE HOWARD ACWORTH

J.P. (C.DEC.) QLD

The Seal of BRISBANE CITY COUNCIL was hereunto affixed this of day of May 20/0, by me JANINE ELIZABETH BOYD

I being the proper officer to affix such seal.

715110 **Execution Date**

Applicant's or Solicitor's Signature

Appointed Officer

Note: A Sollcitor is required to print full name if signing on behalf of the Applicant

Title Reference

COVENANT

This Covenant is entered into between the Covenantor and Covenantee pursuant to Section 97A(3)(b)(i) of the Land Title Act.

RECITALS

- A. The Land is situated on an Environmental and Native Animal Habitat Corridor.
- B. The Covenantor and Covenantee agree that the Environmental and Native Animal Habitat Corridor and the habitat it provides for Native Animals must be protected, and that the Covenantor will use the Land in such a manner as not to cause harm or damage to this natural environment to protect the Native Plants and Native Animals on the Land.
- C. The Covenantor and Covenantee agree to the terms of this Covenant in order to facilitate the protection of the Native Animals and Native Plants within the Environmental and Native Animal Habitat Corridor on the Land.

COVENANT:

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions. In this document unless a contrary intention appears:-

"Covenant" means the covenant contained in the Form 31, the Schedule and in this document;

"Covenant Area" means the area of Covenant described in item 2 of the Form 31;

"Covenantee" means the Brisbane City Council;

"Covenantee's agents" includes the Covenantee's elected members, officials, agents, servants, employees, contractors and sub-contractors and servant's of the Covenantee's contractors and sub-contractors;

"Covenantor" means the party named in Item 1 of the Form 31 and its successors and assigns as the registered owner of the Land;

"Covenantor's Obligations" means the obligations set out in clause 3 of this Covenant;

"Development Approval" means the approval having file reference set out in the Schedule;

"Domestic Animals" means any animal that is not native to Australia, including but not limited to cats, dogs and livestock;

"Environmental and Native Animal Habitat Corridor" means the Environmental and Habitat Corridor, being land that supports the ecology and ecosystem for Native Animals and Native Plants;

"Form 31" means the Form 31;

"Land" means the respective lots over which the Covenants described in Item 2 of the Form 31 are registered;

"Native Animals" means native Australian animals;

"Native Plants" includes all native Australian trees, bushes, plants, vines, shrubs, grasses, flowers, algae, fungi or other terrestrial or aquatic vegetable whether living or dead but does not include Noxious Weeds;

"Notice" means any certificate, demand or notice to be made, given or served by a party under this Covenant;

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"Noxious Weeds" means any plants declared by the Covenantee or the State to be a pest plant, noxious weed or environmental weed from time to time;

"Schedule" means the Schedule which is the document marked as 'Schedule A', attached to the Form 31.

1.2 Headings. The headings of clauses in this document are inserted for convenience only and will not affect the construction of this document.

2. DESCRIPTION OF COVENANT

2.1 The purpose of this Covenant is to ensure the conservation and preservation of the Native Animals and Native Plants on the Covenant Area and, for the purposes of protecting the Native Plants and the habitat of the Native Animals - to prevent any building or construction on the Covenant Area.

3. COVENANTORS OBLIGATIONS

- 3.1 The Covenantor must at all times use the Covenant Area in such a manner that does not harm the Environmental and Native Animal Habitat Corridor and the Native Animals on the Covenant Area.
- 3.2 The Covenantor must ensure that at all times that the Native Plants on the Covenant Area are maintained.
- 3.3 The Covenantor must regularly inspect the Covenant Area for Noxious Weeds and remove any Noxious Weeds from the Covenant Area.
- 3.4 Other than as permitted in the Development Approval or as approved in writing by the Covenantee, the Covenantor must not:-
 - (a) harm or cause harm to any Native Animal on the Covenant Area;
 - (b) restrict any Native Animal from accessing the Covenant Area;
 - remove any Native Plants or Native Animals from the Covenant Area except where the maintenance of Noxious Weeds is required;
 - (d) damage any Native Plants on the Covenant Area;
 - (e) pollute the Covenant Area;
 - (f) plant or permit to grow any Noxious Weeds on the Covenant Area;
 - (g) conduct any burning off, application of herbicide or other chemical or any other process on the Covenant Area which might adversely affect the Native Plants or Native Animals on the Covenant Area;
 - (h) allow or permit entry on the Covenant Area of any Domestic Animal that may harm or interfere with the Native Animals;
 - (i) use motorised vehicles, including motor blkes, within the Covenant Area;
 - (j) construct, create or pave any path, road or access way on the Covenant Area;
 - (k) carry out any works, construction, or build any thing on the Covenant Area. The following is a non-exhaustive list of works and construction that must not be constructed or built on the Covenant Area buildings; swimming pools; tennis courts; retaining walls; car-parking; on-site waste disposal areas; excavations; foundations; fillings; paving; water, gas, electricity or sewerage infrastructure; and all structures ancillary to any of the above;
 - carry out any process (such as but not restricted to the removal of Native Plants) which may cause erosion to the soil on the Covenant Area; and

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(m) construct any fence along the boundary of the Covenant Area unless written approval is first obtained from the Covenantee.

4. COVENANTEE'S RIGHT OF ACCESS

- 4.1 The Covenantor hereby expressly authorises the Covenantee and its members, officers, agents, servants, employees, contractors and sub-contractors and other persons authorised by it at any reasonable time, upon giving notice, to enter, re-enter, traverse, and leave the Land with all of necessary plant and equipment for the following purposes:
 - (a) inspect, test and monitor the Land; and
 - (b) make good any breach of the obligations of the Covenantor at the expense of the Covenantor.
- 4.2 The Covenantee must give reasonable notice of any intention to enter the Land except in cases of emergency or when the Covenantee on reasonable grounds believes that the delay in giving notice is prejudicial to its responsibilities under this Covenant.

5. DEFAULT

- 5.1 In the event of non-compliance by the Covenantor with the Covenantor's Obligations, the Covenantee may, in its absolute discretion:
 - (a) issue a written direction requiring the Covenantor to remedy the non-compliance; and/ or
 - (b) enter the Land to carry out work to remedy the non-compliance.
- 5.2 Where the Covenantee issues a written direction pursuant to **clause 5.1(a)**, the Covenantor shall comply with the direction within 14 days or such other reasonable time period as may be specified in the direction.
- 5.3 In the event that the Covenantor fails to comply with a written direction within the time allowed in accordance with clause 5.2, the Covenantee may enter the Land, perform the work and recover the costs of performing the work as a debt.
- 5.4 Nothing contained in this Covenant shall affect, prejudice or derogate from the rights, powers and authorities of Covenantee under any statute, rule, regulation, ordinance, by-law, or local law.

6. BIND SUCCESSORS

The covenants contained in this document and the obligations of the Covenantor under it will pass to and bind any successors in title to the Land.

7. SEVERABILITY

If any term or condition of this document or its application to any person or circumstance is or becomes invalid or unenforceable, the remaining terms and conditions will not be affected. Each term and condition will be valid and enforceable to the fullest extent permitted by law.

8. JOINT AND SEVERAL LIABILITY

In this document, an obligation incurred by two or more persons will be construed as an obligation incurred jointly and severally by each of such persons.

9. COSTS

All registration fees on this document must be paid by the Covenantor.

QUEENSLAND LAND REGISTRY Land Title Act 1994, Land Act 1994 and Water Act 2000

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10. CO-OPERATION

Each party to this document will do all acts and render all co-operation reasonably required by the other for the purpose of enabling the registration of this document in the Titles Office (Department of Environment and Resource Management and its successors).

11. APPLICATION

This Covenant applies severally in respect of each of the Lots in Item 2 of the Form 31.

12. INSPECTION OF MANAGEMENT PLANS, DEVELOPMENT APPROVALS, AND/ OR ANY OTHER DOCUMENT MENTIONED IN OR ASSOCIATED WITH THIS COVENANT

Any person wishing to inspect any plan, management plan, development approval or any other document available for 'public inspection' by this Covenant, may do so, after making application to the Covenantee and paying of the Covenantee's prescribed fees for inspection (if a fee is applicable).