

# ENCUMBRANCE

**PRIVACY COLLECTION STATEMENT:** The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

## LAND DESCRIPTION

**ALLOTMENT**                      **IN DP**                      **BEING PORTION OF THE LAND COMPRISED IN CERTIFICATE OF TITLE VOLUME**  
**5100 FOLIO 314**

## ESTATE & INTEREST

Estate in Fee Simple

**ENCUMBRANCER** (Full name and address)

**ENCUMBRANCEE** (Full name, address and mode of holding)

**MH AFFORDABLE HOMES ON ANGLE VALE PTY LTD (A.C.N. 624 775 846)** of Suite 99, Level 4, 515 Kent Street Sydney NSW 2000

## OPERATIVE CLAUSE

THE ENCUMBRANCER ENCUMBERS THE ESTATE AND INTEREST IN THE LAND DESCRIBED FOR THE BENEFIT OF THE ENCUMBRANCEE WITH AN ANNUITY OR RENT CHARGE OF

- |  |   |
|--|---|
| (a) Insert the amount of the annuity or rent charge  | (a) Ten Cents (\$0.10) per annum if and when demanded   |
| (b) State the term of the annuity or rent charge.<br>If for life use the words "during his or her lifetime"        | (b) TO BE PAID TO THE ENCUMBRANCEE<br>as a yearly rent charge for a term of 999 years commencing<br>on the date of this Encumbrance |
| (c) State the times appointed for payment of the annuity<br>or rent charge. Any special covenants may be inserted. | (c) AT THE TIMES AND IN THE MANNER FOLLOWING  |

Payable (if demanded by the Encumbrancee) on the 1st day of January in each year commencing on the 1st day of January following the date of this Encumbrance AND with the performance and observance of the following covenants

IT IS COVENANTED BETWEEN THE ENCUMBRANCER AND ENCUMBRANCEE as follows:

**The purpose of this encumbrance**

1. The encumbrancer on page 1 (“you”, “your”) grants this encumbrance –
  - 1.1 for the benefit of the encumbrancee on page 1 (“we”, “our”, “us”)
  - 1.2 for the benefit of each present and future owner of the land
  - 1.3 to charge the land on page 1 (“the land”) with the payment of the annuity on page 1 (“the rent charge”)
  - 1.4 for the purpose of a common building scheme for the development zone (“development zone”)
  - 1.5 with the intent that its covenants run with the land and be binding also on anyone who becomes the owner of the land after you.

**Interpreting this encumbrance**

2. In this encumbrance, unless the contrary intention appears –
  - 2.1 “the land” means all the land and any rights and easements describe above
  - 2.2 “development zone” means Allotment 4 in Deposited Plan No. 7173
  - 2.3 “development” means works of any kind, including but not limited to –
    - “building works” as defined in the Building Works Contractors Act
    - the construction or alteration of any permanent or temporary structure
    - earthworks or landscaping of any kind
    - repairs, painting or improvements of any kind
  - 2.4 reference to giving access to us includes giving access to our employees, agents and contractors
  - 2.5 reference to a party includes the party’s successors and transferees (and also the party’s personal representatives if the party is a natural person)
  - 2.6 reference to any statute includes statutes which change or replace it and
  - 2.7 any word indicating the singular includes the plural and vice versa
3. If there are more than one of you then –
  - 3.1 we only have to give notices to one of you and
  - 3.2 all your obligations in this encumbrance are joint and several.

**Restrictions on the use and development of the land**

4. You must use the land only for private residential purposes

5. You must obey any development guidelines we issue from time to time relating to carrying out any development of the land

**Rules governing the use of the land**

6. You must obey the following rules in using or owning the land
  - 6.1 You must not subdivide the land or create any additional allotment from it without the express consent of the Encumbrancer.
  - 6.2 Transportable buildings are not permitted on the land.
  - 6.3 You must not use any caravan, tent or other shelter on the land as a place of residence.
  - 6.4 You must not make any claim against us for the cost of (or contribution to the cost of) erecting a fence between the land and any land of ours. You indemnify us against such claim.
  - 6.5 You must site your dwelling, driveway and crossover in accordance with the Building Envelope Plan as issued by the Developer from time to time.
  - 6.6 You must commence construction of a dwelling on the land within 24 months of the date of this encumbrance and have completed construction within 12 months thereafter.
7. The provisions of the Law of Property Act and the Real Property Act relating to encumbrances apply to this encumbrance.
8. The provisions referred to in the above Clause 7 include, amongst other rights and obligations –
  - 8.1 an obligation on you to keep all improvements on the land in good repair
  - 8.2 a right of ours to enter upon the land, upon giving the occupier of the dwelling house reasonable notice of our intention to do so, to inspect the state of repair of such improvements
  - 8.3 an obligation on you to pay the rent charge at the time and in the manner set out in this encumbrance

**Dwelling**

9. During the continuance of this encumbrance, you SHALL NOT:
  - 9.1 erect or cause to be erected any building or structure other than the one main dwelling house together with the usual domestic outbuildings ancillary to the use of such dwelling house.
  - 9.2 place any advertising or business signage on the land or in the front window or on the walls of any residential dwelling house except real estate signage associated with the sale of an established home.

- 9.3 delay or permit to be delayed the completion of the construction of the dwelling house after construction of the same has commenced.

#### **Carport/Sheds**

- 9.4 erect or cause to be erected any shed or outbuilding except that the same shall be constructed with Woodland Grey (or other such colour in the colourbond range approved by us) coloured material and be of powder coated cladding. The said buildings shall not be painted.

#### **Fencing**

- 9.5 erect or cause to be erected any fence forward of the building alignment or on the front alignment of the land (unless the land is a corner allotment and has two front alignments) in which case you may erect a fence along one of the front alignments for the purpose of enclosing a ground at the rear of the land provided that such fence does not extend within 3 m of the front alignment. You may, with our prior written approval, erect a decorative fence of not more than 1.2 m in height (made of new, non-reflective materials) at such place or places and of such design as we may from time to time determine.
- 9.6 erect or cause to be erected any fence on the land which is less than 1800 mm in height and all fencing shall be constructed of powder coated steel materials in a good neighbour modular style and shall be the colour "Woodland Grey" (in the colourbond range) on both sides.

#### **Landscaping**

10. You shall landscape the land within a period of six (6) calendar months after completion of a dwelling house on the land. You shall at all times thereafter maintain, keep tidy and care for the landscaping.

#### **Parking of vehicles**

11. You must not cause or allow:
- 11.1 parking of motor vehicles on other than the driveway on the land
  - 11.2 the storage of boats, caravans, cars and/or trailers forward of the front alignment of the dwelling house.

#### **Power of sale of the land**

12. Notwithstanding s. 136 of the Real Property Act, you agree that we may, if we exercise our power of sale, require the purchaser of the land to accept the sale of the land subject to an encumbrance in the same terms as this encumbrance.

### **Your obligations on transferring the land**

13. If you wish to sell or otherwise transfer the land before construction of a dwelling house you must advise the proposed transferee of the remaining time (unexpired term of 24 months commencing from the date of this encumbrance) pursuant to clause 6.6 herein for the construction of the dwelling.
14. Any application for extension of time for construction of a dwelling shall be in writing and shall be served on us by being left at or posted in a pre-paid envelope addressed to us at our office in South Australia and any grant of extension of time shall be at the absolute discretion of the Encumbrancee.
15. You must not otherwise sell or transfer the land except subject to this encumbrance.
16. If you cease to be a registered proprietor of the land, you must tell us the name and address of any new proprietor. Once you do so, you will no longer be liable to pay us the rent charge. The covenants in this encumbrance only bind the registered proprietor of the land for the time being.
17. You must cause the prospective purchaser to execute in our favour an encumbrance substantially in the same form as this encumbrance. You must also cause that encumbrance to be registered immediately after the transfer of the land to the purchaser, and before any other interest in the land is created.

### **Waiver and assignment**

18. We may, in our absolute discretion, waive compliance with any development guidelines, or with any of the requirements of this encumbrance.
19. We may modify, waive or release any of the covenants in this encumbrance. A party's action, or lack of it, on any disobedience of this encumbrance by the other does not:
  - 19.1 affect the party's rights if the other repeats or continues the disobedience or
  - 19.2 disobeys this encumbrance in another way.
20. No waiver is effective unless in writing signed by our authorised officer.

### **Assignment by us**

21. We may transfer or assign our rights under this encumbrance.

### **Severance of invalid clauses**

22. If any clause of this encumbrance is void or unenforceable then it must be read down so that it is not void or unenforceable.
23. If it cannot be read down, it must be severed (that is, treated as if cut out).

24. The rest of this encumbrance is not affected if any clauses are read down or severed.

#### **Payment of costs**

25. The costs incidental to the preparation of this encumbrance, and the stamp duty and registration fee on it, must be paid by you.

You must also pay us any costs we incur as a result of any breach of this encumbrance by you or your employees, agents, contractors or invitees.

#### **How notices may be given**

26. All notices (including approvals or demands)

26.1 must be in writing

26.2 must be given to the other party

26.3 can be given in person

26.4 can be left at the other party's address on page 1, or at the other party's last known address

26.5 can be sent there by post, but they must be correctly addressed and posted

26.6 can be given to you by being left at, or sent by post to, the land

26.7 are, if posted, treated as given the next business day after posting

26.8 may, if the party has a facsimile number, be sent by facsimile transmission to that facsimile number. In that case, the notice is treated as having been given when the sender's facsimile machine confirms that the transmission has been successfully completed

26.9 may be signed by a party, or any person that party authorises to sign it.

#### **Sunset Clause**

27. Our rights and obligations as the Encumbrancee (but not those of any person claiming under the Encumbrancee as a purchase of any land in the Development Zone) will cease from whichever of the following dates occurs first:

27.1 a date being three (3) years after the practical completion of any approved dwelling upon the last remaining vacant allotment in the Development Zone (excluding any allotment upon which no dwelling is permitted to be erected) or

27.2 the 31<sup>st</sup> day of December 2023.

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*\* Delete the inapplicable*

IT IS COVENANTED BETWEEN THE ENCUMBRANCER AND ENCUMBRANCEE in accordance with the terms and conditions expressed ~~\*herein / \*in Memorandum No. \_\_\_\_\_~~ subject to such exclusions and amendments specified herein.

DATED.....

**CERTIFICATION** *\*Delete the inapplicable*

**Encumbrancer(s)**

\*The Prescribed Person has taken reasonable steps to verify the identity of the encumbrancer.

\*The Prescribed Person holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

\*The Prescribed Person has retained the evidence to support this Registry Instrument or Document.

\*The Prescribed Person has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed By:

<Name of certifying party>

Registered Conveyancer

for:<Name of certifying company>

on behalf of the Encumbrancer

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**Encumbrancee(s)**

\*The Prescribed Person has taken reasonable steps to verify the identity of the encumbrancee.

\*The Prescribed Person holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

\*The Prescribed Person has retained the evidence to support this Registry Instrument or Document.

\*The Prescribed Person has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed By:

Amy Verna Pearson

Registered Conveyancer

Duncan Sande & Associates

on behalf of the Encumbrancee

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LANDS TITLES REGISTRATION OFFICE

SOUTH AUSTRALIA

**ENCUMBRANCE**

FORM APPROVED BY THE REGISTRAR-GENERAL

PRIORITY NOTICE ID	
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**BELOW THIS LINE FOR OFFICE &  
STAMP DUTY PURPOSES ONLY**

SERIES NO	PREFIX
	E

AGENT CODE

LODGED BY:

CORRECTION TO: DUNCAN SANDE & ASSOCIATES (DUSA)

SUPPORTING DOCUMENTATION LODGED WITH INSTRUMENT  
(COPIES ONLY)

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....

CORRECTION	PASSED
REGISTERED	
REGISTRAR-GENERAL	