

**Heritage Council of
Western Australia**

and



HERITAGE AGREEMENT

Coronado Hotel

HERITAGE AGREEMENT
Coronado Hotel

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HERITAGE AGREEMENT

Coronado Hotel

S18(1) Heritage of WA Act
for Commissioner of State Revenue

THIS AGREEMENT is made on the 21st day of September 1999 between the following parties:

1. HERITAGE COUNCIL OF WESTERN AUSTRALIA of 108 Adelaide Terrace, East Perth, Western Australia (the "Council"); and

2. [REDACTED]

RECITALS:

- A. [REDACTED]
- B. The Place is entered in the Register of Heritage Places on a permanent basis pursuant to the Act.

AGREEMENT:

The parties agree with each other as follows.

Part 1 Definitions & Interpretation

1.1 Definitions

In this Agreement, unless the contrary intention appears:

"Act" means the Heritage of Western Australia Act 1990;

"this Agreement" means this agreement as it may from time to time be varied as permitted by its terms;

"Condition Precedent" means the condition precedent set out in Item 4 of the Schedule;

"Conservation Plan" means the Conservation Plan in respect of the Place described in item 5 of the Schedule as may from time to time be varied with the approval of the Council;

"Conservation Works" means the conservation works described in Annexure C;

"Construction Completion Date" means-

in the case of Short Term Works; the date 6 months after the Effective Date;

in the case of Medium Term Works; the date 2 years after the Effective Date;

in the case of Long Term Works; the date 5 years after the Effective Date;

"Construction Period" means:

- (a) the period commencing on the Effective Date and expiring on the Construction Completion Date; or
- (b) any longer period agreed between the Council and the Owner in writing;

"Damage" means losses, costs, damages, liabilities, expenses, actions, suits or claims of any kind;

"Effective Date" means the date on which this Agreement comes into operation under Clause 2.1;

"Event of Default" is defined in clause 5.1;

"Land" means the land described in Item 3 of the Schedule;

"Minister" means the Minister responsible for the administration of the Act;

"Owner" means:

- (a) [REDACTED]
- (b) any other owners of the Land, "Owner" having the meaning ascribed to it by section 3(2) of the Act;

"Place" means the place described in Item 1 of the Schedule and situated on, or forming part or the whole of, the Land;

"Significant Fabric" means those parts of the fabric of the Place as are specified in Item 2 of the Schedule;

and

words and expressions having defined meanings in the Act, unless otherwise defined in this clause, have the meanings so defined in the Act.

1.2 Interpretation

In this Agreement, unless the contrary intention appears:

- (a) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (b) a covenant or agreement by more than one person binds, and is enforceable against, those persons jointly and each of them severally;
- (c) no rules of construction apply to the disadvantage of a party on the basis that that party was responsible for the preparation of this Agreement or any part of it.

Part 2 STAMP DUTY Condition Precedent, Duration and Scope of this

DUP \$ ***** Agreement ***** .00

O/S \$ ***** .00

2.1 Condition Precedent

The provisions of this Agreement other than Part 1 and this Clause 2.1 will not come into operation until the Condition Precedent has been satisfied. If the Condition Precedent has not been satisfied before 31 December 1999 or such later date as may be agreed between the parties then, unless the parties agree otherwise, this Agreement will determine and neither party will have any claim against the other with respect to anything arising out of, done, performed or omitted to be done or performed under it.

2.2 Duration of this Agreement

This Agreement shall be of permanent effect unless terminated with the written consent of the Council.

2.3 Scope of this Agreement

- (a) This Agreement:
- (1) applies to the Land and the Place;
- (2) binds the Land and the Place; and
- (3) binds the Owner.
- (b) All of the obligations of the Owner under this Agreement are covenants made pursuant to section 29(10) of the Act and are intended to run with the Land.
- (c) The rights and obligations of the Owner under this Agreement are not assignable by the Owner without the written consent of the Council.
- (d) Subject to sub-clause (e), on an Owner transferring the whole of the interest of that Owner in the Place and the Land to another person, the transferring Owner is released from all personal liability under this Agreement.
- (e) The provisions of sub-clause (d) will not apply in respect of any liability or claim which arose prior to the date of registration on the transfer of the whole of the interest of the transferring Owner to another person.

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2.4 Future limitation on Scope of this Agreement

Notwithstanding that the Condition Precedent applies and will continue to apply to the Place as identified on execution of this agreement, where the Owner has:

1. completed the Short Term Works and the Medium Term Works described in Annexure C; and
2. completed a subdivision of the Land such that the Coronado Hotel buildings would be situated on a new lot of not less than 2918m²,

the Council shall:

- (i) advertise a proposal to amend the Register Entry of the Coronado Hotel (fmr) to reflect the reduced land area of the Place and the change to the lot description of the Land;
- (ii) promptly consider any submissions received on the proposal; and
- (iii) forward its recommendations for the proposed amendment to the Minister for determination

in accordance with the procedures stipulated in s. 54(2) of the Act.

Part 3 Development and Conservation

3.1 Conservation Works, Development

- (a) The Owner must, during the Construction Period, undertake the conservation of the Place:
 - (1) as recommended by the Conservation Plan;
 - (2) by the completion of the Conservation Works,in each case in accordance with plans and specifications first approved by the Council.
- (b) The Owner shall not:
 - (1) carry out any development on or of the Place; or
 - (2) without prejudice to the generality of sub-clause (b)(1), do or permit to be done anything on or in relation to the Place which adversely affects the cultural heritage significance or characteristics of the Place,except as permitted by this clause or as otherwise approved by the Council.

3.2 Conservation Consultant

- (a) The Owner must appoint a consultant approved by the Council to supervise the Conservation Works, and must commission the consultant to provide the Council with written progress reports detailing the Conservation Works which have been completed.
- (b) The written progress reports must be submitted to the Council (a) within one month of the end of each financial year during the Construction Period, and (b) within one month of completion of the Short Term, Medium Term and Long Term Conservation Works as defined in this agreement.

3.3 Maintenance

The Owner shall maintain the Significant Fabric, as restored and adapted with the approval of the Council, in a proper, safe and sound standard of repair and condition in all respects to the reasonable satisfaction of the Council.

3.4 Compliance with Statutes

Nothing in this Agreement removes, limits or modifies the obligations on the Owner to comply with all relevant statutory and other requirements in connection with the development of the Land, and the Owner is responsible to obtain all approvals consents and licences required for development of the Land, including planning approvals and building licences, from all relevant bodies and authorities including the local authority.

Part 4 Council's Rights of Entry and Powers of Inspection

4.1 Council's rights of entry and powers of inspection

- (a) Subject to sub-clause (b) the Council shall, through its nominated representative or nominated officer from time to time, have the power to enter the Place at reasonable times, and on reasonable prior notice, for any purpose related to the provisions of this Agreement, including without limitation to inspect the Place with a view to ensuring compliance with the provisions of this Agreement.
- (b) Subject to sub-clause (c), the Council will comply with any reasonable requirement imposed by the Owner for the purpose of exercising the rights of the Council under sub-clause (a).
- (c) The Owner must do all things necessary to enable the Council to exercise its rights of inspection as set out in sub-clause (a), including without limitation ensuring that reasonable access is provided to all parts of the Place and ensuring access to and use of any facility at the Place which is necessary to facilitate inspection.

Part 5 Default

5.1 Events of default

- (a) An Event of Default occurs if:
 - (1) the Owner is in breach of or does not comply with any of its obligations under this Agreement and the breach or non-compliance continues for 30 days, or such longer period as is reasonable for rectification having regard to the nature of the breach or non-compliance, after receipt of written notice from the Council to effect compliance; or
 - (2) the Owner repudiates or commits a fundamental breach of this Agreement.

5.2 Rights and remedies of Council

In the event any Event of Default occurs, the Council shall be entitled to exercise any one or more of the following powers:

- (a) through its agents, contractors or employees enter the Place and take such actions as are in the Council's opinion necessary to rectify the Event of Default (including attending to any construction or other works); together with or separately from

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- (b) any rights and remedies which may be available to the Council at law or in equity; together with or separately from
- (c) the rights, powers and remedies available to the Council under the Act,

and nothing in this Agreement limits or prejudices or shall hinder the exercise by the Council or the Minister or any other person of any of the rights, powers or remedies available to the Council, the Minister or that person under the Act if an Event of Default occurs, or any other event occurs which is a breach of any provision of the Act.

5.3 Land and Place at risk of Owner

The Land and the Place shall remain at the risk of the Owner in all respects, notwithstanding any provisions in this Agreement dealing with the development of the Land or the Place and without limitation all development of the Land or the Place shall be conducted entirely at the risk of the Owner and the Owner shall indemnify and keep indemnified and save harmless the Council against all Damage incurred or suffered by the Council arising from or in connection with the development or occupation of the Land or the Place by the Owner or any person claiming through or under the Owner.

5.4 Interest on overdue money

If the Owner becomes liable to pay any amount of money to the Council pursuant to this Agreement or arising from any matter the subject of this Agreement, the Owner shall pay to the Council interest on that amount from and including the due date for payment of the amount to but excluding the actual date of payment of that amount. The interest is to be paid on demand by the Council, is to be calculated on daily balances, and is to be at the rate then payable on judgment debts pursuant to the provisions of the Supreme Court Act.

Part 6 General

6.1 Variation to be in writing

Any variation of this Agreement must be in writing executed by the Council and the Owner.

6.2 Governing Law

This Agreement is governed by the laws of the State of Western Australia and the parties submit to the jurisdiction of that State.

6.3 Further assurances

Each party shall do all things and execute all further documents as are necessary to give full effect to this Agreement.

6.4 Extension of time by Council

The Council may, at the Council's discretion and by written notice to the Owner, extend any time period for performance by the Owner of any of its obligations under this Agreement.

6.5 Costs

- (a) The Owner of the Land shall pay or reimburse the Council on demand for all the Council's costs and expenses in relation to:
 - (1) the exercise or enforcement by the Council of any right, power or remedy under this Agreement; and
 - (2) any act or omission by the Owner causing Damage to the Council,

including the Council's legal costs and expenses.

- (b) Each party shall pay all its own legal costs and expenses in relation to the preparation, execution and stamping of this Agreement.

The Schedule

Item 1: The Place

Coronado Hotel situated at 206 Stirling Highway, Claremont, which consists of the Land described in Item 3 and the works and buildings on it.

Item 2: Significant Fabric

The entire structure of that part of the Place which is depicted by hatching and a green outline on the plan Annexure A.

Item 3: Land

Lot 16 the subject of Diagram 42709 being the whole of the land in Certificate of Title Volume 1717 Folio 825 or, in the event that Lot 16 is subdivided such that the Place:

- (a) is situated wholly within a lot comprising not less than 2918 m²;
- (b) has been conserved as part of any redevelopment;
- (c) the entry of the Place on the Register is amended pursuant to section 54 of the Act to limit the extent of the land comprising the Place for the purposes of the Register,

means that part of Lot 16 as referred to in paragraph (a) above.

Item 4: Condition Precedent

The bringing into effect of an Order under Section 38 of the Act in the form of the proposed Order set out in Annexure B.

Item 5: Conservation Plan

"Coronado Hotel Claremont: Conservation Plan" prepared by Ron Bodycoat, July 1999.

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EXECUTED AS A DEED

THE COMMON SEAL of HERITAGE COUNCIL OF WESTERN AUSTRALIA
is affixed in the presence of:

Philip Griffiths

Signature of authorised person

COUNCILLOR

Office held

PHILIP JOHN GRIFFITHS

Name of authorised person

[Signature]

[Redacted]

DIRECTOR

[Redacted]

IAN HADWIN [Redacted] KIER

[Redacted]



SIGNED

by

in the presence

Witness

Name (please print)

SIGNED

by

in the presence

Witness

Name (please print)

CERTIFICATE UNDER SECTION 32 OF THE HERITAGE OF WESTERN AUSTRALIA ACT

I, The Hon. Graham Kierath, MLA, Minister for Heritage, hereby certify that this Agreement is necessary for the purposes of, and complies with, the Heritage of Western Australia Act.

Dated the 21st day of SEPTEMBER 1999.

[Signature]

Proposed Order

1. This order may be cited as the Coronado Hotel Order 1999.
2. In this order -

"Land" means that part of Melville Suburban Lot 95 and being Lot 16 the subject of diagram 42709 being the whole of the land comprised in Certificate of Title Volume 1717 Folio 825.

"TPS 3" means the Town of Claremont Town Planning Scheme No 3.

3. TPS 3 is amended by:
 - 3.1 Including the Land in the Special Development (Restricted Use) Zone on the TPS 3 Scheme Map; and
 - 3.2 Adding to Appendix VIII of the TPS 3 Scheme Text:

Column1 Location	Column2 Particulars of Land	Column 3 Permitted Use	Column4 Standards/Conditions
206 Stirling Highway	Lot 16 the subject of Diagram 42709 being the whole of the land in Certificate of Title Volume 1717 Folio 825	All of the uses Permitted in the Highway Zone in accordance with Table 1 - Land Use Table, and Clause 14 of the Scheme Text, but to the extent that where the Land is to be used for residential dwellings, the density coding and plot ratio requirements under the Residential Planning Codes shall not apply providing the number of units does not exceed twenty four (24), together with such uses and activities as may be reasonably incidental or ancillary to the purpose of such dwellings.	The uses permitted on the Land in Column 3 additional to those otherwise permitted in the Highway Zone are subject to: <ol style="list-style-type: none"> 1. The conservation and restoration of the original Hotel building constructed in 1940. 2. No building being constructed between the original Hotel building and the Stirling Highway frontage. 3. No building exceeding 10.5m in height from natural ground level to eaves height and 13m from roof ridge to natural ground. 4. The grant by the Owner of the Land of: <ol style="list-style-type: none"> (a) a right of carriageway along the southern boundary of the Land in favour of Pt Lot 1 and Lot 2 on Plan 640, Lot 25 on Diagram 78091, Lot 400 on Diagram 71718 and Lot 13 on Diagram 30920; and (b) the grant of an easement for drainage in favour of Lot 13 on Diagram 30920 over and along the width of the right of carriageway referred to in condition 5; contemporaneously with the surrender by the Town of Claremont of the drainage easement set out in Transfer 22877/65.

CONSERVATION WORKS

SHORT TERM WORKS

1. Halt collapse of the line to the false ceiling of the canopy outside the Main entrance to the building by stopping water penetration, by temporary propping or by additional temporary fixings.
2. Ensure that deteriorated gutters and downpipes do not allow water to penetrate or damage the building fabric, and temporarily repair such deterioration as may be necessary.
3. Check the condition of original concrete hoods to the ground a first floor level so the north and east facades; remove any loose or spalling concrete and temporarily treat corrosion on exposed reinforcement.
4. Remove any loose or detached material to the canopy over the Drive-in bottle Shop to the north façade.
5. Restore deteriorated false ceilings and concrete hoods at ground floor level to the main Entrance and north façade.
6. Restore all gutters and timber fascias to sound condition and original detail.

MEDIUM TERM WORKS

1. Ensure regular assessment, monitoring and recording of the condition and performance of key structural elements of the building fabric, and ensure any problems are addressed and resolved without delay to avoid further loss or deterioration.

Exterior

2. Remove the cantilevered canopy and shop front alterations provided for the Bottle Shop, and restore the façade in the character of the original.
3. Remove the flagpoles at the Stirling Highway boundary and the illuminated sign.
4. Remove signage and lighting to the parapet of the north façade.
5. Remove planting against the building adjacent to the main entrance.
6. Remove the limestone planters and concrete block paving at the main entrance; repave to the contour of the original Entrance Porch and restore the original planters against the building at this point.
7. Reinstate the original type front doors and internal draft Lobby doors.
8. Restore altered ground floor, metal framed windows to the eastern façade.
9. Remove enclosures to the first floor balconies to the north and east facades and restore the Balconies to sound condition and original.
10. Remove the external Bar, metal fence and gates in the internal courtyard, the trellis, limestone walling, concrete block paving and the planting, and appropriately upgrade the presentation of the Courtyard.
11. Remove all introduced exposed conduits and services on the external face of the building; adapt inappropriate changes to downpipes on the face of the building at the east and west extremities of the north façade; remove or relocate to discreet locations introduced ventilation grilles on the external facades.

12. Restore the north wall at ground floor level to detailing sympathetic with the original or in consultation, to compatible detailing necessary to accommodate the adapted new use for the building.
13. Remove all exposed air conditioning and other introduced plant and equipment and restore the fabric of walls and windows.
14. Remove the introduced "Coronado Hotel" signage and applied bands above the Main Entry; install wording as the name for the building in a new use, in the original location and to the same size and style of the original signage of the Highway Hotel.
15. Repaint the exterior in an appropriate paint colour scheme.
16. The setting of the site on the northern and eastern sides of the building should be restored in the ambience of the original presentation of the Hotel, ie. an open aspect which allows unrestricted views to the two street facades of the building; car parking, vehicular access, fencing, lighting and security should all be sensitively designed to respect the original setting.

Interior

1. Retain the original details of areas identified in this Conservation Plan as significant; restore or reconstruct such details as may be necessary; introduce changes appropriate for the adaptation of the building to a new use, in a character compatible with the original.
2. In areas of the interior not identified in this Conservation Plan as significant, adaptation to a new use should respect the character and form of the original building and should not compromise the elements or the areas identified as significant.

LONG TERM WORKS

3. The impact on original fabric of the introduction of new services in the process of adaptation and long term development should be carefully designed and carried out to avoid damage to significant fabric and must not compromise the integrity of the external appearance of the building or of any significant internal spaces.
4. In consideration of the adaptation to a new use, retain the plain glass glazing replacements to the original glass block infill to openings in the curved walls to the staircase and former Office, at Ground Floor level; retain the option to return the openings to glass blocks as a matter for future consideration.
5. Upgrade or remove the introduced link mesh enclosure at the south east corner of the building.
6. Remove the garages and associated Stores and Laundry in the context of their deteriorated condition and transformation from the original form.