

THE HERITAGE COUNCIL OF WESTERN AUSTRALIA

- and -

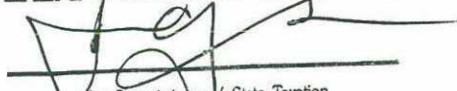


HERITAGE AGREEMENT

AUSTRALIAN GOVERNMENT SOLICITOR
Level 19
Exchange Plaza
2 The Esplanade
PERTH WA 6000

Reference: 94001324/3669/tc
Telephone: 268 1116
Facsimile: 268 1772

0117
EXEMPT from W.A. Stamp Duty


for Commissioner of State Taxation


THIS HERITAGE AGREEMENT is made as a Deed on the 10th
day of April 1995

WESTERN AUSTRALIA STAMP DUTY
20/04/95 21101408 NDP \$*****0.00
EXEMPT (SECTION 119 OF THE STAMP ACT)

BETWEEN:

THE HERITAGE COUNCIL OF WESTERN AUSTRALIA a body corporate pursuant to the Heritage of Western Australia Act 1990 ("the Act") of 292 Hay Street East Perth Western Australia ("the Council");

AND:

, Western Australia ("the Owner") in respect of portion of Fremantle Town Lots 29 and 30 comprising all the land subject of Certificate of Title Volume 893 Folio 165 ("the Place")

RECITALS

- A. The Owner has purchased an estate in fee simple in the Place from the Commonwealth of Australia .
- B. Situated on the Place is a building known as Bank of Australasia.
- C. By reason of special interest relevant to the cultural heritage which the Place possesses the Minister for Heritage has, pursuant to Section

29(2)(c) of the Act, directed that the Place be made subject to a Heritage Agreement.

OPERATIVE PART

1. Interpretation

1.1 Definitions

In this Heritage Agreement unless the context otherwise requires: "Act" means the Heritage of Western Australia Act 1990 and includes all statutes varying, consolidating or replacing it and all regulations, proclamations, orders and by-laws issued under it;

"Conservation Management Plan" means the conservation management plan in respect of the Place prepared by John R Stephens ARAIA (a copy of which is annexed to this Heritage Agreement and marked "A") as may be amended or added to from time to time in accordance with this Heritage Agreement.

"Council" means the Heritage Council of Western Australia, and where it ceases to exist and is reconstituted, or renamed, or replaced or its powers or functions are transferred to any other association, body, or authority a reference to it means the association, body or authority (as the case may be) established or constituted in its place or assuming its powers or functions;

"Heritage Agreement" means this deed as it may from time to time be supplemented, varied or amended.

"Owner" includes the successors, personal representatives and assigns of the Owner;

"Place" means Portion of Fremantle Town Lots 29 and 30 comprising all the land subject of Certificate of Title Volume 893 Folio 165.

1.2 Interpretation

In this Heritage Agreement, unless the context otherwise requires:

Headings are for convenience only and do not affect the interpretation of this Heritage Agreement;

Words importing the singular include the plural and vice versa;

Words importing a gender include every gender;

Every covenant or agreement expressed or implied in which more persons than one covenant or agree shall bind such persons and every two or more of them jointly and each of them severally.

2. Application of Act

This Heritage Agreement is made by the Council on behalf of the Crown pursuant to Section 29(1) of the Act and shall be governed by and construed in accordance with the Act.

3. Term

The coming into effect of this Heritage Agreement is subject to and conditional upon settlement of the sale of the Place to the Owner and upon settlement of that sale this Heritage Agreement will be of permanent effect.

4. Owner's Covenants

The Owner covenants with the Council to the intent that the covenants run with the land and, upon the Heritage Agreement coming into effect, the covenants will pass to and bind the Owner's successors in title, all of whom shall be deemed to have notice of this Heritage Agreement.

4.1 Use

Except with the prior approval of the Council, which approval will not be unreasonably withheld, the Owner shall only use and permit to be used the Place in a manner that complies with the user requirements identified in Section 4.2 of the Conservation Management Plan and only for purposes classified as permitted uses in the zone within which the Place is situated under the relevant planning scheme as may apply from time to time and as are otherwise consistent with the Conservation Management Plan.

4.2 Alteration

The Owner covenants not to do any act or thing to alter or change in any way the buildings, walls, fences or other improvements now standing or being on the Place without the prior written approval of the Council, which approval shall not be unreasonably withheld where those acts or things done are done for the purposes of conservation (see Burra Charter which covers all processes, including

restoration) and are consistent with the Conservation Management Plan.

4.3 Maintenance

The Owner acknowledges that the Conservation Management Plan accurately describes the state of condition repair and order of the Place as at the date of this Heritage Agreement subject to any alterations or improvements that may have been made by the current lessee of the Place with the approval of the Commonwealth of Australia in accordance with the plans which are annexed hereto and marked "B" and the Owner covenants to keep the buildings, walls, fences and other improvements now standing or being on the Place in their present repair and to carry out all maintenance and repairs necessary for such purposes in a proper and workmanlike manner to the reasonable satisfaction of the Council and in accordance with plans and specifications and using workmen approved by the Council which approval shall not be unreasonably withheld.

4.4 Inspection

The Owner will permit the Council and persons authorised by the Council to enter the Place to see the state of repair and in order to:-

- (a) establish whether or not the terms of this Heritage Agreement have been or are being complied with by the Owner;
- (b) establish whether or not to consent to an amendment, waiver, addition to or deletion of this Agreement and the Conservation Management Plan; and
- (c) serve on the Owner a notice in writing of any action required by the Owner to comply with its obligations under this Heritage Agreement;

PROVIDED THAT entry under this sub-clause 4.4 can only be carried out:-

- (a) upon giving at least 48 hours notice to the Owner;
- (b) at a time or times reasonably convenient to the Owner;
- (c) accompanied by a representative of the Owner (unless the Owner declines or refuses); and
- (d) On the basis that the Council causes as little inconvenience and interruption as possible to the Owner and its operations.

4.5 Council's Right to Repair

The Owner will, at all reasonable times and upon written notice, permit the Council and persons authorised by the Council to enter upon the Place or any part thereof and to carry out any repairs which should in accordance with the covenants of the Owner contained in this Heritage Agreement be carried out by the Owner in which case the Owner shall pay to the Council on demand the cost of such repairs.

5. Effect of Non-compliance

If in the opinion of the Council the Owner has failed to comply with a notice given under clause 4.4 within the time required in the notice (which shall be a reasonable time) then the matter shall be deemed to be disputed.

6. Consent to Registration

The Owner consents to the Place being entered by the Council in the Register of Heritage Places in terms of the Act and waives all rights the Owner may have in terms of the Act to be given notice of the

Place being entered in the Register of Heritage Places or to make or have considered submissions in that regard.

SIGNED SEALED AND DELIVERED by)

[Redacted])

the presence of:)

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

1) from
Address:
No. [Redacted]

THE COMMON SEAL OF the)
HERITAGE COUNCIL OF)
WESTERN AUSTRALIA was)
hereunto affixed in the presence of:)



[Signature]
Chairperson

[Signature]
Member DIRECTOR

**CERTIFICATE UNDER SECTION 32 OF THE HERITAGE OF WESTERN
AUSTRALIA ACT**

I, The Hon. Richard Lewis JP, 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 10th day of *April* 19 95.

A handwritten signature in black ink, appearing to read "Richard Lewis", with a long horizontal flourish extending to the right.