



COOMBS – STAGE 1 HOUSING DEVELOPMENT GUIDE VERSION 1

The Land Development Agency (LDA) provides a Housing Development Guide for all single residential land sold in LDA estates.

It is important that estates reflect changing industry regulations and advancements in technology, this means that updates may need to be made to Housing Development Guides from time to time.

Specific changes are listed below, but please contact the LDA's selling agent on 1800 123 230 if you have any questions or would like further information.

Tuesday 14 January 2014

The following amendment has been made to the Coombs Stage 1 Housing Development Guide to allow the transfer of Rebates to First Occupiers in certain circumstances.

AMENDMENT 2		
5.7 LAND ON SOLD BY THE BUYER TO THE FIRST OCCUPIER		
<p>If a Buyer decides to on sell the land, the right to apply for the Rebates is not automatically transferred to a third party (the First Occupier). The right to apply for the Rebates lies with the Buyer only, and only if they are the Crown Lessee of the land at the time of applying for the Rebates, unless the LDA agrees to transfer the right to apply for the Rebates to the First Occupier under a deed. To enable the First Occupier to apply for the Rebates, the Buyer and the First Occupier must complete and sign the Deed of Agreement in the Housing Development Guide (Attachment G, Annexure 3) and submit it to the LDA prior to the on sale taking place. Once the Deed is signed by the LDA and dated, a copy will be issued to both parties. When the First Occupier applies for the Rebates they will need to include a copy of the Deed with their completed Rebate application forms. The Deed provides three options to allow the transfer of the Rebates. Please ensure you only select one option.</p> <p>There is also provision in the Deed for the LDA to refund a Compliance Bond to a Buyer, even if the Buyer on sells the land. The Deed must be signed before the on sale occurs.</p> <p>Please note the LDA will not agree to transfer the right to apply for the Rebates to any subsequent buyer of the land after a First Occupier.</p> <p>Both parties are encouraged to seek their own independent legal advice regarding the signing of this Deed.</p>		
Date 14 January 2014	Page	Section Heading Reference
	22	New Heading: 5.7 Land On-Sold by the Buyer to the First Occupier
	Attachment G	Annexure 3 Deed of Agreement On-Sale

ANNEXURE 3
DEED OF AGREEMENT – ON-SALE
COOMBS Stage 1, 2 and 3 only

LAND DEVELOPMENT AGENCY (ABN 20 419 925 579)
(LDA)

AND: THE BUYER NAMED IN THE DETAILS
(Buyer)

AND: THE FIRST OCCUPIER NAMED IN THE DETAILS
(First Occupier)

BACKGROUND

- A. The Buyer purchased the Land from the LDA under the First Grant Contract.
- B. The Buyer wishes to on-sell the Land to a First Occupier.
- C. The First Occupier wishes to obtain the benefits of the Rebates.

TICK **ONE OPTION ONLY** THAT APPLIES

Tick ✓

<p>D. OPTION ONE - The LDA has endorsed the Buyer's plans and specifications for the construction of a dwelling on the Land, in accordance with the Contract and with Part 5 of the Housing Development Guide, and the First Occupier will build a dwelling on the Land using the endorsed plans. This option is typically where the Buyer is a builder who is on-selling a house and land package.</p> <p>OR</p>	<input type="checkbox"/>
<p>D. OPTION TWO - The LDA has endorsed the Buyer's plans and specifications for the construction of a dwelling on the Land, in accordance with the Contract and with Part 5 of the Housing Development Guide, however the First Occupier does not want to use the already endorsed plans to construct a home on the Land and instead wants to use their own plans. The parties agree that:</p> <p>(a) the First Occupier will submit plans and specifications for the proposed dwelling on the Land in accordance with the Contract and the Housing Development Guide, as if the First Occupier were the Buyer under the Contract; and</p> <p>(b) The LDA will endorse the First Occupier's plans and specifications in accordance with the Contract and the Housing Development Guide as if the First Occupier were the Buyer under the Contract.</p> <p>OR</p>	<input type="checkbox"/>
<p>D. OPTION THREE - The Buyer has not had any plans yet endorsed by the LDA in relation to the Land, and the LDA holds a Compliance Bond. Mark "Yes" in the Details to record that a Compliance Bond is held by the LDA. The parties agree that:</p> <p>(a) the First Occupier will submit plans and specifications for the proposed dwelling on the Land in accordance with the Contract and the Housing Development Guide, as if the First Occupier were the Buyer under the Contract; and</p> <p>(b) The LDA will endorse the First Occupier's plans and specifications in accordance with the Contract and the Housing Development Guide as if the First Occupier were the Buyer under the Contract and will release the Compliance Bond to the Buyer on endorsement.</p>	<input type="checkbox"/>

- E. The Contract entitles the Buyer to receive the Rebates.
- F. The LDA agrees to pay the Rebates to the First Occupier if the First Occupier complies with all requirements under the Contract and the Housing Development Guide that would have entitled the Buyer to receive the Rebates under the Contract.
- G. The First Occupier and the LDA agree to be bound by the Rebate clauses of the Contract as if the First Occupier had entered into the Contract as the Buyer.

DETAILS

<p>The Buyer</p>	<p>Name: _____</p> <p>Address: _____</p> <p>_____</p>
	<p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>[If the Buyer is a company]</p> <p>Name: _____</p> <p>ACN: _____</p> <p>Address: _____</p> <p>_____</p>
<p>First Occupier</p>	<p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p>

	<p>[If the First Occupier is a company]</p> <p>Name: _____</p> <p>ACN: _____</p> <p>Address: _____</p> <p>_____</p>
<p>The First Grant Contract</p>	<p>The contract between the Buyer and the LDA for the sale of the Land dated:</p> <p>_____</p>
<p>The Land [please use numeric identifiers]</p>	<p>Block: _____</p> <p>Section: _____</p> <p>Division of Coombs</p>
<p>Date of this Deed [to be inserted by LDA]</p>	<p>_____</p>
<p>Compliance Bond held by LDA for endorsement of plans [only applies to Option 3]</p>	<p>Yes / No</p>

OPERATIVE PROVISIONS

The parties agree:

1. DEFINITIONS

In this Deed, except to the extent the context otherwise requires:

- 1.1 **Business Day** has the meaning given to it in the *Legislation Act 2001*.
- 1.2 **Buyer** means the party or parties referred to as the Buyer in the Details.
- 1.3 **Compliance Bond** has the meaning given to it in the First Grant Contract.
- 1.4 **Date of this Deed** means the date of this Deed referred to in the Details.
- 1.5 **Deed** means this “deed of agreement – on-sale” together with any annexures or schedules.
- 1.6 **Energy Efficient Heating or Cooling Rebate** means a rebate of \$1000 payable under the First Grant Contract if the Buyer provides satisfactory evidence that it has installed, no later than 2 calendar months after the issue of the first certificate of occupancy for the improvements on the Land, heating and/or cooling systems that are listed as compliant under Section 5.4.2 of the Housing Development Guide
- 1.7 **First Grant Contract** means the first grant contract for the purchase of the Land between the LDA and the Buyer referred to in the Details.
- 1.8 **First Occupier** means the party or parties referred to as the First Occupier in the Details.
- 1.9 **Housing Development Guide** means the Housing Development Guide annexed to the Contract as amended from time to time in accordance with its terms.
- 1.10 **Land** means the Land referred to in the Details.
- 1.11 **Landscaping Rebate** means a rebate of \$5000 payable under the First Grant Contract if the Buyer landscapes the front yard (being the area between the front of a dwelling and the front property boundary) in accordance with a landscape plan endorsed by the LDA and in accordance with the requirements of Section 5.4.1 of the Housing Development Guide no later than 2 calendar months after the issue of the first certificate of occupancy for the improvements on the Land
- 1.12 **LDA** means the Land Development Agency, a corporation established by section 31 of the *Planning and Development Act 2007* (ACT), of Level 7, TransACT House, 470 Northbourne Avenue, Dickson, ACT.
- 1.13 **Rebates** means:
 - 1.13.1 The Landscape Rebate; and
 - 1.13.2 The Energy Efficient Heating or Cooling Rebate.

- 1.14 References to a person or party include an individual, body corporate (wherever incorporated), unincorporated association, trust or partnership (whether or not having separate legal personality), government, state or agency of a state, or two or more of the foregoing.
- 1.15 References to LDA include any employees, agents or subcontractors of the LDA.
- 1.16 Except where the context requires otherwise, words denoting the singular include the plural and vice versa and words denoting any gender include all genders.
- 1.17 Headings do not affect the interpretation of this Deed.
- 1.18 Reference to a Party includes that Party's personal representatives, successors and permitted assigns.
- 1.19 Reference to a thing (including a right) includes a part of that thing.
- 1.20 If a Party comprises of two or more persons:
- (i) reference to a Party means each of the persons individually and any two or more of them jointly;
 - (ii) a promise by that Party binds each of them individually and all of them jointly;
 - (iii) a right given to that Party is given to each of them individually; and
 - (iv) a representative, warranty or undertaking by that Party is made by each of them individually.
- 1.21 A provision must not be construed against a Party only because that Party prepared it.
- 1.22 A provision must be read down to the extent necessary to be valid and if it cannot be read down to that extent, it must be severed.
- 1.23 If a thing is to be done on a day which is not a Business Day, it must be done on the Business Day before that day.
- 1.24 Another grammatical form of a defined expression has a corresponding meaning.
- 1.25 The word "include" is used without any limitation.
- 1.26 The rights, duties and remedies in this Deed operate to the extent that they are not excluded by law.
- 1.27 Examples are descriptive only and not exhaustive.



2. PLAN ENDORSEMENT

- 2.1 **If Option 1 of Recital D has been ticked**, the First Occupier must use the endorsed plans of the Buyer to construct a dwelling on the Land, and if the First Occupier changes the endorsed plans and specifications in any way, the First Occupier must submit the amended plans and specifications to the LDA for endorsement in accordance with the First Grant Contract and the Housing Development Guide.
- 2.2 **If Option 2 of Recital D has been ticked**,
- 2.3.1 The First Occupier must submit its plans and specifications for construction of a dwelling on the Land in accordance with the First Grant Contract and the Housing Development Guide, as if the First Occupier were the Buyer under the First Grant Contract;
- 2.3.2 The LDA will endorse the First Occupier's plans and specifications in accordance with the First Grant Contract and the Housing Development Guide as if the First Occupier were the Buyer under the First Grant Contract;
- 2.3 **If Option 3 of Recital D has been ticked:**
- 2.3.1 The First Occupier must submit its plans and specifications for construction of a dwelling on the Land in accordance with the First Grant Contract and the Housing Development Guide, as if the First Occupier were the Buyer under the First Grant Contract;
- 2.3.2 The LDA will endorse the First Occupier's plans and specifications in accordance with the First Grant Contract and the Housing Development Guide as if the First Occupier were the Buyer under the First Grant Contract;
- 2.3.3 Notwithstanding that the Buyer has failed to fulfill the requirements for the release of the Compliance Bond, the LDA will release the Compliance Bond to the Buyer within 20 Business Days of the endorsement of the First Occupier's plans and specifications;
- 2.3.4 The First Occupier will make no claim on the Compliance Bond and acknowledges that the LDA has no obligation to pay it to the First Occupier; and
- 2.3.5 The parties agree that the LDA may, without notice to either the Buyer or the First Occupier, pay the Compliance Bond to itself:
- (a) in any circumstance where the LDA is permitted to forfeit the Compliance Bond under the terms of Housing Development Guide; or
- (b) as soon as the First Occupier is no longer the crown lessee of the Land.

3. REBATES

- 3.1 The First Occupier will only be eligible for the Rebates if the dwelling constructed on the Land by the First Occupier was constructed in accordance with plans endorsed by the LDA.
- 3.2 The LDA agrees to pay the Landscaping Rebate to the First Occupier provided that the following conditions are satisfied:
- 3.2.1 The First Occupier or the Buyer has submitted a landscape plan which complies with Section 5.3.2 of the Housing Development Guide and has been endorsed by the LDA as compliant;
 - 3.2.2 The First Occupier has completed the landscaping works on the Land in accordance with the endorsed landscape plan no later than 2 calendar months after the Certificate of Occupancy has issued for the dwelling on the Land;
 - 3.2.3 Public verges disturbed during construction on the Land have not altered the level or grade of the public verges and any rubbish or other materials have been removed from the public verges;
 - 3.2.4 The First Occupier has lodged, within 2 calendar months after the Certificate of Occupancy has issued for the dwelling on the Land, an application for the Landscaping Rebate in the form provided in Attachment G of the Housing Development Guide, containing all necessary information to the satisfaction of the LDA;
 - 3.2.5 The LDA, if desired at its discretion, has conducted an inspection of the landscaping works on the Land and finds them satisfactory to the LDA; and
 - 3.2.6 The First Occupier, at the time of lodging the application for the Landscaping Rebate, is the crown lessee of the Land.
- 3.3 The LDA agrees to pay the Energy Efficient Heating or Cooling Rebate to the First Occupier provided that the following conditions are satisfied:
- 3.3.1 The First Occupier or the Buyer installed one or more heating and/or cooling systems of the type that are listed as compliant under the Housing Development Guide no later than 2 calendar months after the Certificate of Occupancy has issued for the dwelling on the Land;
 - 3.3.2 The First Occupier has lodged, within 2 calendar months after the Certificate of Occupancy has issued for the dwelling on the Land, an application for the Energy Efficient Heating or Cooling Rebate in the form provided in Attachment G of the Housing Development Guide, containing all necessary information to the satisfaction of the LDA;
 - 3.3.3 The LDA, if desired at its discretion, has conducted an inspection of the installed systems on the Land and finds them satisfactory to the LDA; and
 - 3.3.4 The First Occupier, at the time of lodging the application for the Energy Efficient Heating or Cooling Rebate, is the crown lessee of the Land.

- 3.4 The LDA may extend the period of time referred to in clauses 3.2.2, 3.2.4, 3.3.1 and 3.3.2 at its absolute discretion provided that there are exceptional circumstances for doing so demonstrated by the First Occupier.
- 3.5 The Buyer will make no claim in respect of the Rebates relating to the Land.
- 3.6 The First Occupier, once the Rebates have been paid in accordance with this clause 3, or payment has been refused on the basis of non-compliance with this clause 3, will make no further claim for the Rebates in respect of the Land.

4. FIRST OCCUPIER ACKNOWLEDGEMENTS

- 4.1 The First Occupier acknowledges that no subsequent transferee of the Land will be entitled to the Rebates.

5. SEVERABILITY

- 5.1 If all or any part of any provision of this Deed is invalid or unenforceable then:
- 5.1.1 that provision is severed from this Deed to the extent necessary to remove the invalidity or illegality; and
- 5.1.2 the remaining provision of this Deed remain valid and enforceable.

6. NO MERGER

- 6.1 The terms of this Deed capable of having effect after termination of this Deed do not merge on termination and continue to have full effect.

7. ASSIGNMENT

- 7.1 The First Occupier must not assign its rights or obligations under this Deed other than with the written consent of the LDA.

8. WHOLE DEED

- 8.1 This Deed embodies the whole agreement between the parties relating to the subject matter of this Deed and supersedes any and all oral and written negotiations and communications by or on behalf of any of them.

8.2 Each party:

- (a) has relied on their own enquiries in deciding to sign this Deed; and
- (b) has not relied on any warranties, representations, or statements of any kind in deciding to sign this Deed.

8.3 No variation to this Deed is valid unless in writing and signed by all Parties.

9. COSTS

9.2 Each party will bear its own costs in relation to the preparation, negotiation, completion and execution of this Deed.

10. JURISDICTION

10.1 This Deed is governed by the laws of the Australian Capital Territory. The parties irrevocable submit to the jurisdiction of the Australian Capital Territory Courts of law and no party may object to the jurisdiction of those courts.

11. COUNTERPARTS

11.1 This Deed of Agreement may be executed in counterparts and each counterpart forms the one Deed of Agreement.

Executed as a deed

Signed by an authorised representative of the **Land Development Agency** in the presence of:

Witness Signature

Signature of Authorised Person

Name of Witness in full

Name of Authorised Person in full

Executed as a Deed by the Buyer

Signature of witness

Buyer Signature

Name of witness in full

Name of Buyer in full

Signature of witness

Buyer Signature

Name of witness in full

Name of Buyer in full

If the Buyer is a company:

Executed as a Deed by the Buyer in accordance with section 127 of the Corporations Act 2001 by:

(Sole) Director/Secretary Signature

Director Signature

(Sole) Director/Secretary Name in full

Director Name in full

Executed as a Deed by the First Occupier

Signature of Witness

First Occupier Signature

Name of Witness in full

Name of First Occupier in full

Signature of Witness

First Occupier Signature

Name of witness in full

Name of First Occupier in full

If the First Occupier is a company:

Executed as a Deed by the First Occupier in accordance with section 127 of the Corporations Act 2001 by:

(Sole) Director/Secretary Signature

Director Signature

(Sole) Director/Secretary Name in full

Director Name in full