

Covenants – Stage 24

Background

The intention of these land covenants is to establish and maintain an attractive high quality and well-designed residential development while providing for appropriate flexibility in the design and architecture of the Houses and other buildings and structures to allow for creativity and individuality within the development.

Interpretation

1. In these land covenants the following terms have the corresponding meanings provided below:

- (a) “Developer” means Chedworth Properties Limited.
- (b) “Developer’s Land” means all the land currently contained in records of title 1167208 and 880926 and any further records of title derived therefrom..
- (c) “Design Committee” means the Greenhill Park Design Committee established to implement the Design and Building Guidelines.
- (d) “House” or “Houses” mean any residential building or House or part of a residential building or House which is intended to be used as a separate residence.
- (e) “Owner” means any registered proprietor of any lot referred to as burdened land in Schedule A.
- (f) “Prohibited Housing” means any accommodation activity, housing or letting provided through the agency of any central or local government entity or agency or government contracted accommodation provider.
- (g) “Property” or “Properties” mean any lot referred to as burdened land in Schedule A.

2. **Further Subdivision**

The Owner must not subdivide the Property, without approval in writing from the Developer. For the purposes of this clause, “subdivision” means any subdivision, including a fee simple, unit title or cross lease subdivision.

3. **House**

- (a) The Owner must not build or cause to be built on the Property any buildings other than one House unless expressly provided otherwise in these land covenants or otherwise approved in writing by the Developer.
- (b) The House must be newly constructed on the Property and not be a relocated or second-hand House.
- (c) All materials used in the construction of the House must be first grade new materials unless otherwise approved by the Design Committee.
- (d) All Houses constructed must be pursuant to the design and building guidelines issued by the Design Committee and approved in writing.
- (e) The construction of any building including fencing will be commenced within 12 months of settlement of the Property from the Developer.
- (f) The construction of any building including fencing will be completed within 12 months of commencement of that building.

- (g) No building or associated work in the course of construction will remain without substantial work being carried out for a period exceeding three months.
- (h) Landscaping of the Property must be completed prior to occupation of the House on the Property.
- (i) No building on the Property will be used as a residence unless:
 - i. The House and all other buildings on the Property have been substantially completed in accordance with the terms of these covenants and Design Committee approvals; and
 - ii. Buildings which have been constructed on the Property meet the requirements of the territorial authority/local authority/Council and for which a code compliance certificate has issued; and
 - iii. The construction of the driveway, paths, fences and landscaping has been completed, including any painting required.

4. Other Structures

Clotheslines on the Property must be located away from any road with appropriate screens so they are not visible from any road.

5. Maintenance of Property

- (a) An Owner must keep the Property and berm directly outside the Property in a neat and tidy condition both during and after construction including by ensuring that:
 - i. The grass and any landscape planting, including street berms, are maintained so it is free of weeds and grass does not exceed a height of 100 millimetres;
 - ii. Gardens, including street berms, are maintained and weeded regularly;
 - iii. Rubbish does not accumulate on the Property or berm; and
 - iv. The Property and berm does not look otherwise untidy.

For clarity, this clause 5 shall extend to any right of way or access lot used by the Property.

- (b) If, in the Developer's opinion, the Owner is at any time in breach of Clause 5, the Developer may cut the grass, weed, remove the rubbish or undertake any other work reasonably required to bring the Property into compliance with Clause 5. Any cost of this work may be levied against the Owner and the Owner must pay any such costs and any levies charged pursuant to Clause 13 within 10 working days of receiving an invoice from the Developer.

6. Animals

An Owner must not allow to be kept on the Property any animals other than domestic pets which, without restricting the generality of such term, shall exclude goats, sheep, horses, pigs, poultry and beehives. Further, an Owner will not allow to be kept on the Property more than one dog and one cat of a greater age than three months.

7. Use of the Property

The Property must not be used for commercial or trading purposes without first obtaining the approval of the Developer. An owner must not park or allow to be parked on the adjoining street to the Property or on the Property sold herein any truck or commercial vehicle in excess of 4 tonnes. Any caravan, trade vehicle or other equipment or machinery or materials

must be garaged or screened from the road adjacent to the Property so as to preserve the amenities of the neighbourhood.

8. Prohibited Housing

The Owner must not enter into any arrangement for a Prohibited Housing activity, and the Developer may not approve any such arrangement.

9. Damage outside of Property

Any damage to improvements or accumulation of rubbish outside of the Property, on adjoining sections or within the road reserve, or other reserve areas, caused by the Owner, its agents, or invitees including, but not limited to, damage caused to footpaths, berms, roads or street lamps, crossings and swales, must be repaired by the Owner immediately following completion of the House and driveway.

10. Signage

An Owner must not erect, place or allow to be erected or placed, any sign or hoarding of a commercial nature or for rent sign on the Property, excluding building or for sale signs.

11. Developer's and Design Committee Approval

- (a) The role of the Developer and the Design Committee is to give approvals under these land covenants and will terminate 10 years from when the first Owner has fully implemented the design as approved by the Design Committee. From that date, the right to enforce or waive the rights or benefits so conferred will, in accordance with the normal legal principles, vest in the registered proprietors of the benefitted land.
- (b) The Developer and the Design Committee may assign or delegate its rights, powers and discretions set out in these land covenants.
- (c) Any approval required from the Developer and/or the Design Committee under these land covenants means written approval.
- (d) The Developer's and/or the Design Committee's right to grant or decline any requests for approval under the land covenants and Design and Building Guidelines is an unfettered right and does not allow any person to challenge for any reason the giving or the declining of any such approval. For the avoidance of doubt, no person will have any claim against the Developer and/or the Design Committee in respect of any decision that the Developer and/or the Design Committee or the assignee or delegate makes in respect of any approval sought.

12. No Objection

The Owner covenants and agrees that it will not object to, prevent, prohibit or in any way interfere with or restrain any subdivision and/or development work lawfully carried out by the Developer on the Developer's Land. The owner covenants and agrees not to object to or procure any third party to object to any future or proposed application by the Developer or its successors in title of the Developer's Land for a resource consent or plan change including any works required to implement such consent or plan change required by the Developer for its future development of the Developer's Land. For the avoidance of doubt, the provisions contained in clause 13 herein shall apply for any breach of covenant contained in this clause.

13. Breach

Acknowledging that the value of the benefitted land may be affected by the standard of House erected on the Property and by failure to comply with these land covenants, the Owner

covenants for the Owner personally and their executors, administrators and assigns that should the Owner fail to comply with, observe, perform or complete any of the land covenants contained in this document and without prejudice to any other liability the Owner may have to the Developer or any other person, the Owner will:

- (a) Immediately upon receipt of a written demand for payment from the Developer or the Developer's solicitors, pay to the Developer as liquidated damages the sum of \$1,000.00 per day for each day the default continues unremedied, such liquidated damages to be limited to a maximum value of \$500,000.00 plus interest and any costs.
- (b) Shall immediately undertake such remedial action as may be required by the Developer including but not limited to permanently removing or causing to be permanently removed from the Property, any building or other structure so erected or repaired or other cause of any breach or non-performance of these land covenants.
- (c) Pay on demand the Developer's costs incurred in respect of the default and any enforcement or attempted enforcement over the Developer's rights such costs to include but not be limited to legal costs on a solicitor/client basis.
- (d) Pay interest at the rate of 15% on any money which may be demanded and not paid, such interest to accrue from the date of the demand until the date it is finally received by the Developer, provided that:
 - i. Except for those defaults notified to the Owner when it is a registered proprietor the Owner shall only be liable while the Owner is a registered proprietor of the Property;
 - ii. If a default is completely and finally remedied within one month of notice in writing requiring the removal or remedy of such cause of default and the payment by the defaulting party of all reasonable costs and other expenses incurred by the party enforcing the said covenants has been made then the sum payable under Clause 13(a) shall abate to \$1.00 per day provided that this abatement shall not apply in respect of any subsequent default of a similar nature; and
 - iii. The right of the Developer to enforce these covenants and by this clause shall continue for 12 calendar months from the date on which it ceases to be an Owner provided however, that the Developer is under no liability whatsoever to enforce these land covenants.

14. Dispute Resolution

If a dispute in relation to any of these land covenants arises, the following process must be followed:

- (a) The party initiating the dispute must provide full written particulars of the dispute to any other party/parties;
- (b) The parties must promptly meet in good faith to try and resolve the dispute;
- (c) If the dispute is not resolved within 14 working days of the written particulars being given to the party/parties, the dispute must be referred to arbitration in accordance with the Arbitration Act 1996 or any subsequent Act;
- (d) The arbitration must be conducted by a single arbitrator to be agreed between the parties or failing agreement, by the President of the New Zealand Law Society; and
- (e) The decision made by an arbitrator is binding on both parties.