

**Appendix 5  
Land Covenants**

## **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) "Design Committee" means the Greenhill Park Design Committee established to implement the Design and Building Guidelines.
  - (c) "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.
  - (d) "Owner" means any registered proprietor of any lot referred to as a servient land in Schedule A.
  - (e) "Property" or "Properties" mean any lot referred to as a servient land in Schedule A.
  
2. **Further Subdivision**

The owner must not subdivide the property. For the purposes of this clause, "subdivision" means any subdivision, including a fee simple, unit title or cross lease subdivision.
  
3. **House**

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.
  
4. The house must be newly constructed on the property and not be a relocated or secondhand house.
  
5. All materials used in the construction of the house must be first grade new materials unless otherwise approved by the Design Committee.
  
6. All houses constructed must be pursuant to the design and building guidelines issued by Greenhill Park Design Committee and approved in writing.
  - (a) The construction of any building including fencing will be commenced within 12 months of settlement of the property from the developer.
  - (b) The construction of any building including fencing will be completed within 12 months of commencement of that building.
  - (c) No building or associated work in the course of construction will remain without substantial work being carried out for a period exceeding three months.
  - (d) Landscaping of the land must be completed within 12 months of the commencement of the construction of the building on the dwelling on the land.
  - (e) No building on the land will be used as a residence unless:
    - (i) The dwelling and all other buildings on the land have been substantially completed in accordance with the terms of these covenants, and

- (ii) Buildings which have been constructed on the land 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 has been completed.

7. **Other Structures**

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

8. **Maintenance of Property**

An owner must keep the property in a neat and tidy condition including by ensuring that:

- (a) The grass is maintained so it does not exceed a height of 100 millimetres; and
- (b) Rubbish does not accumulate on the property; and
- (c) The property does not look otherwise untidy.

9. If, in the developer's opinion, the owner is at any time in breach of this clause 8, the developer may cut the grass, remove the rubbish or undertake any other work reasonably required to bring the property into compliance with this clause 9. Any cost of this work may be levied against the owner and the owner must pay any such costs within 10 working days of receiving an invoice from the developer.

10. **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 two dogs and two cats of a greater age than three months.

11. **Use of the property**

The property must not be used for commercial or trading purposes without first obtaining the approval of the developer.

12. **Damage outside of property**

Any damage to improvements outside of the property or within the road reserve caused by the owner, its agents, or invitees including, but not limited to, damage cause to footpaths, roads or street lamps, crossings and swales, must be repaired by the owner immediately following completion of the house and driveway.

13. **Signage**

An owner must not erect, place or allow to be erected or placed, any sign or hoarding of a commercial nature on the property, excluding building or real estate related signs.

14. **Developer's and Design Committee Approval**

The role of the developer and the Design Committee is to give approvals under these land covenants will terminate 48 months from the developer ceasing to be an owner and 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 dominant land.

15. The developer and the Design Committee may assign or delegate its rights, powers and discretions set out in these land covenants.

16. Any approval required from the developer and/or the Design Committee under these land covenants means written approval.
17. 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.

**18.0 Transpower New Zealand Limited**

The owner agrees to:

- (a) Transpower New Zealand Limited (including its employees, contractors, agents and invitees) undergrounding part of the overhead section of the transmission line known as the Hamilton-Meremere B transmission line ("HAM-MER B line") and undertaking all related works on the dominant land and on adjoining roads and undertaking any necessary related works on the servient land without objection, interference or restraint from the owner;
- (b) Not object to, complain about, bring or contribute to any proceedings (whether in contract, tort (including negligence, nuisance and public nuisance), equity, under any statute or otherwise, and whether seeking damages, injunctive or other relief or any order) relating to the works referred to in clause 18(a), including for any temporary or permanent visual, noise or other effects of those works or any structures associated with those works, or otherwise relating to the HAM-MER B line; and
- (c) Not make or lodge, nor be a party to, nor finance, nor contribute to the cost of any submission, application, proceeding or appeal (whether under the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the works referred to in clause 18(a) or to require any modification to those works or otherwise to the HAM-MER B line.

The owner acknowledges that the owner's covenants contained in this clause 18 are intended to benefit and be enforced by Transpower New Zealand Limited, its successors and assigns, under the Contracts (Privity) Act 1982.

**18. Breach**

Acknowledging that the value of the dominant 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 \$150,000.00 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 being the sum payable under clause 18. 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.

**19. 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.

**20. Acknowledgment**

The owner acknowledges that the interim access over Lots 501, 502 and 503 is intended to be closed and an alternative access provided by the developer to Greenhill Park Subdivision, in Stages 5, 6, 7 and 8.

The owner shall not be entitled to object and shall not object to any such closure whether under the Local Government Act 1974 or any other legislative or regulatory process. If the owner does object this shall constitute a breach of the covenants and remedies are available pursuant to clause 18.

**21. Power of Attorney**

The owner irrevocably appoints the developer (or any nominated officer of the developer) to be the true and lawful attorney of the owner for the purposes of executing all documents and plans and to perform all acts, matters and things as may be necessary to register any documentation required in relation to the intended closure of the interim access over Lots 501, 502 and 503 and to the provision of any alternative access to Greenhill Park Subdivision, Stages 5, 6, 7 and 8