

Proposed Land Covenants – Totara Grove, Greytown

INTERPRETATION

In this easement instrument unless the context otherwise requires:

1.1 Definitions:

“Covenant” or “Covenants” means the covenants set out in this instrument.

“Developer” means Waingawa Property Holdings Limited, being the entity carrying out the Development, including its successors and assigns.

“Development” means the residential developments undertaken by the Developer (known as Totara Grove) being the subdivisions depicted in Deposited Plan [insert] which is intended to be established as a modern and well-designed subdivision.

“Dwelling” includes any residential dwelling, any garages, any accessory building or other structure.

“Grantee” means those who are registered proprietors for the time being of the Lots which have the benefit of and are subject to the Covenants.

“Grantor” means those who are the registered proprietors for the time being of the Lots described in Schedule A of this instrument as the servient tenement.

“Improvements” includes any Dwelling to be erected on the land, driveways, concrete works, pathways and landscaping.

“Land” means all of the land contained in Certificate of Title [insert].

“Lot” or “Lots” means a lot or lots on Deposited Plan [insert].

“Owner” or “Owners” means those who are the registered proprietors for the time being of the Lots described in Schedule A of this instrument as the dominant tenement and the servient tenement and includes the Owner’s agents, contractors and assigns.

1.2 Interpretation:

- (a) Headings: Clause and other headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this instrument.
- (b) Defined Expressions: Expressions defined in the main body of this instrument bear the defined meaning in the whole of this instrument including the recitals.
- (c) Plural and Singular Words: Words importing the singular number shall include the plural and vice versa;
- (d) Negative Obligations: Any obligation not to do anything shall be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- (e) Successors Bound: This instrument binds and benefits the parties and their heirs, executors, successors and assigns in perpetuity and also any lessee or occupier of any Lot.

SPECIFIC DESIGN CONTROLS

2.1 No Improvements shall be commenced or erected or permitted to be commenced or erected on any Lot by any Owner except where:

- (a) The final building plans and specifications (as intended to be submitted to the Territorial Authority for a building consent) including full details of all exterior design and finish (preferably in natural shades), the location of the proposed Dwelling on the Lot, and details of fencing, driveways and front yard landscaping for the Improvements have first been approved by the Developer. The approval of the Developer will be entirely at the discretion of the Developer in all respects and must be in writing before a building consent is applied for and/or any site work commences.
- (b) The Improvements are constructed, erected and situated in accordance with the plans and specifications first approved by the Developer in writing or in such other manner as the Developer shall first approve in writing.

2.2 The Owner shall not, without the prior written approval of the Developer:

- (a) Erect or allow the erection of more than one single storey residential dwelling, one garage (attached or unattached) and one accessory building on any Lot.
- (b) Erect or allow any residential dwelling to exist on any Lot with a floor area of less than 130 square metres (the floor area to be exclusive of garaging, roof overhangs, verandas and any other accessory building).
- (c) Permit or allow the removal onto any Lot of any pre-built, transportable or relocatable house or existing house which has been previously lived in.

2.3

The Owner shall not:

- (a) Erect or allow on the Lot any Improvements which are not architecturally complimentary to the Development with the intention being that such Improvements must merge with the environment of the Development and the natural beauty of the area.
- (b) Make any additions or alterations to any existing Dwelling on the Lot that is inconsistent in finish, quality and appearance with the first Dwelling constructed on that Lot.
- (c) Commence construction on the Lot until a vehicle crossing of no more than four (4) metres width has been installed in a style and position approved by the Developer in writing, the kerb cut down at the crossing, and the driveway from the road to the Lot formed and suitably based. For the avoidance of doubt such works are to be at the expense of the Owner.
- (d) Use or permit to be used on the Lot any second-hand building or fencing materials of any kind.
- (e) Erect or permit to be erected on the Lot:
 - (i) A long-run iron, panel steel, un-textured flat cement or plywood fence;
 - (ii) A front yard fence and/or gate which exceeds 1.8 metres in height above natural ground level;
 - (iii) Any gateposts or columns adjacent to any part of the vehicular access to any Lot which exceed 1.8 metres in height above natural ground level;
 - (iv) A shelter belt or boundary plantation higher than four (4) metres; or
 - (v) Any aerials, satellite dishes or other communication receivers of a commercial nature.

RESTRICTIONS ON LAND USE

3.1

The Owner shall not:

- (a) Permit the carrying on of any trading, commercial, industrial or other non-residential activity on the Lot with the exception of:
 - (i) A homestay or bed and breakfast establishment accommodating no more than four (4) guests in addition to the Owner and the immediate family of the Owner; or
 - (ii) An office used only by the Owner and the immediate family of the Owner.
- (b) Allow on the Lot any activity which creates a nuisance, disturbance or damage to any Owner or occupier of any other Lot.
- (c) Allow any unreasonable off-site glare from any lighting on the Lot, such as permanent spotlights.
- (d) Allow or permit any caravan, truck, bus, broken down vehicle, trailer, machinery, shed, tent, temporary structure, or other unsightly object (not including any motor car, small van, or utility truck that is in good working order, repair and appearance) to be parked or remain on the Lot or any internal road of the Development for any material period of time unless it is adequately screened or garaged in a satisfactory manner to prevent offence to any other Lot and to preserve the amenities of the Development.
- (e) Subdivide the Lot or apply for a subdivision consent of any kind whatsoever in respect of the Lot, and not to cross-lease or convert the Lot to unit title.
- (f) Allow any buildings or structures on the Lot to become dilapidated or to fall into disrepair.

- (g) Allow or permit the erection of any temporary building or structure upon the Lot except such as may be used in conjunction with the construction of a residential dwelling on the Lot and which will be removed from the Lot upon completion of the residential dwelling. The Developer shall have the right to require the removal of any temporary building or structure which it considers in its absolute discretion not to be of a nature and type suitable to the Development.
- (h) Allow noxious plants (including but not limited to thistles, ragwort, gorse, blackberry and convolvulus), animals and insects to infest the Lot and to take all reasonable steps to eradicate all such noxious plants, animals and insects on the Lot and any road reserve or berm at the front of the Lot.
- (i) Use the Lot for animal breeding/boarding kennels and allow any animals on the Lot other than domestic pets which shall without restricting the generality of such term exclude poultry, goats, sheep, horses, cattle, beehives and pigs.
- (j) Allow to be planted or grown on the Lot any trees or shrubs (excluding any trees or shrubs existing on the Land prior to subdivision of the Land) in such a manner so as to inhibit the light of or views from any other Lot in the subdivision.
- (k) Allow any animals to be a nuisance to any Owner or occupier of any other Lot.
- (l) Allow any motor vehicle to be parked or left other than on a formed and sealed or concrete parking apron or driveway.
- (m) Erect any sign or permit any sign to be displayed on the Lot of a permanent nature, without the prior written approval of the Developer.
- (n) Permit or suffer any rubbish to accumulate upon the Lot nor permit any excessive growth of grass on the Lot or the road berm adjacent to the Lot so that the same exceeds 100 mm in length or otherwise becomes unsightly.

BUILDING CONSTRUCTION

4.1 The Owner shall:

- (a) during the construction of any Improvements or services on the Lot, ensure all construction materials, rubbish and excavation materials are stored within the boundaries of the Lot and that adequate rubbish disposal containers are provided within the Lot to hold and control waste materials and to prevent them being wind-blown onto adjoining Lots or roads;
- (b) ensure the Lot is clean and tidy and all waste or excess material removed from the Lot within one (1) month of completion of the construction of any Improvements; and
- (c) ensure that no damage or disturbance is caused to any part of any road, footpath, reticulated service, berm, curb, survey peg, street light or landscaping on the access to the Lots and in the event that any damage or disturbance is caused, the Owner of that Lot must within a reasonable time make good the damage or disturbance at its cost.

4.2 The Owner shall not make any use of any adjoining Lot (whether occupied or not) any berms (except at designated crossings) or footpaths for construction work or for access by vehicles.

4.3 The Owner shall complete the construction of any Improvements on the Lot (including but not limited to the exterior colour finish, fences and landscaping) within eighteen (18) months of the date of commencement of construction of those Improvements. Completion shall mean and include the issue of a Code Compliance Certificate from the Territorial Authority for the Dwelling.

4.4 No Lot shall be occupied or used as a residence until (at the Owner's expense):

- (a) any residential dwelling under construction has been substantially completed in accordance with the requirements of the Territorial Authority;
- (b) all required reticulated services are connected; and
- (c) all vehicle crossings to the Lot and driveways are completed in accordance with these Covenants and otherwise to the Territorial Authority's standards and specifications.

OTHER LAND

- 5.1 No Owner of any Lot shall object or take any steps inimical in any way whatsoever to any application or other steps taken by the Developer or consent from the Territorial Authority or any other body having jurisdiction to subdivide and develop other land owned by the Developer nor will the Owner of any Lot permit anyone claiming an interest on behalf of or at the instructions of that Owner to so object or take any steps inimical in any way whatsoever. Should the Owner of any Lot enter into any agreement for the sale and purchase of a Lot prior to the said Lots being subdivided as aforesaid the Owner of that Lot will bring this covenant to the notice of any subsequent purchaser or prospective purchaser (who shall have a like obligation) and shall ensure these Covenants are inserted in any subsequent agreement for sale and purchase.

FENCING COVENANT

- 6.1 The Owner shall not require the Developer to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between any Lot and any adjoining land owned by the Developer, but the benefit of this fencing covenant shall not enure to any transferee of such adjoining land.

BREACHES OF DEVELOPER'S APPROVAL

- 7.1 If any Owner does not comply with any specifications or conditions of the Developer's approval required pursuant to clauses 2.1(a), 2.1(b), 2.2, and 3.1(m) of these Covenants, the Developer may serve notice on the Lot Owner requiring him, her or them to remedy the non-compliance within a reasonable period of time specified in that notice.
- 7.2 If the Owner does not remedy the non-compliance referred to in clause 7.1 above within the period specified, the Developer may:
- (a) Enter onto the Lot where the non-compliance has occurred and either remedy the non-compliance or remove any non-complying works; or
 - (b) Authorise any contractor or agent to enter onto the Lot where the non-compliance has occurred and either remedy the non-compliance or remove any non-complying works; and may
 - (c) Recover the costs of its actions taken under this clause as a liquidated debt from the Lot Owner.
- 7.3 The Developer may take any other action it considers reasonably necessary to prevent a breach of any Developer's approval including (but not limited to) requiring construction of any Improvements on the Lot to cease pending remedy of such breach.

LIABILITY

- 8.1 The Developer, nor any member, employee, agent, or contractor of the Developer is not liable to any Owner or occupier of any Lot for any loss, damage or injury arising out of or in any way connected with any recommendation, approval (conditional or unconditional) or rejection given in reliance of these Covenants unless due to bad faith, or a criminal act.
- 8.2 Any requirement in this instrument to submit plans and specifications for any Improvements to the Developer, or to obtain the Developer's approval, will cease to apply six (6) years after the date of this instrument (but without prejudice to the liability of any party for any breaches which have already occurred).
- 8.3 Approvals (conditional or unconditional) given by the Developer shall not be construed as certifying compliance of any works with any laws or Territorial Authority requirements or other approvals required by other agencies for that work.
- 8.4 If the whole or any part of a clause of these Covenants conflicts with any law or requirement of any relevant authority, it shall have no effect to the extent of the conflict.
- 8.5 Notwithstanding these Covenants, the Developer shall be entitled to waive strict compliance with the conditions of the Developer's approval provided that the Developer decides in its sole discretion that the proposed amendments are generally in accordance with the aims expressed herein and in accordance with the continued harmony of the Development generally and for the avoidance of doubt any decision as to this waiver by the Developer shall be final and not subject to any review whatsoever.