

Land Covenants – Carlisle Estate Developments

Land and Pre-Construction Covenants

- 1 The Lot Owner shall not:
 - 1.1 Reside on or in any Lot in temporary accommodation including but not limited to any caravan, container, hut or shed whilst the Dwelling is in the course of construction.
 - 1.2 Permit commercial vehicles or trailers to be regularly located on the street or footpath or in front of the Lot unless reasonably required during the course of construction of a Dwelling.
 - 1.3 Permit or suffer to be stored on a Lot any freight containers hut or shed unless required for storage of materials required during the course of construction of the Works.
 - 1.4 Occupy a Lot or any Dwelling as a residence unless and until:
 - (a) the Dwelling has been completed in accordance with all of the terms of these Covenants: and
 - (b) all exterior building work including painting/staining shall be completed.
 - 1.5 Further subdivide any Lot into separate lots or parcels whether by way of freehold subdivision, cross lease, unit title or in any other way.

Building Covenants

- 2 The Lot Owner shall not:
 - 2.1 On any Lot erect or permit to be erected any Dwelling, Fence or other structure on the property unless the Developer shall have first approved all plans and specifications including the siting of the Dwelling, Fence or other structure on the Lot prior to the commencement of any Works. The design for any Dwelling or Accessory Building shall be submitted to the Developer at sketch plan stage including indicative external colour schemes so that approval for the design can be considered prior to the commencement of working drawings. In giving or withholding approval the Developer shall take account of the following criteria:
 - (a) Dwellings shall not exceed 8.5 metres in height above the average ground level of the Lot;
 - (b) external design and appearance (including walls, roofs, fence or screens);
 - (c) the influence of the Dwelling, Accessory Buildings, siting and external design on natural light, view and privacy for adjacent properties; and
 - (d) materials to be used in construction.
- 3 In the exercise of its unfettered discretion, the Developer shall be entitled to disapprove (by way of example but not limited to) the following:

- 3.1 Any Dwelling having less than 120 square metres in gross floor area excluding verandas, patios and Accessory Buildings.
- 3.2 Any multi-coloured brick or tile wall cladding and/or roof tile combination.
- 3.3 Any Dwelling or Accessory Building having exterior cladding of colour steel or any similar quality colour corrugated iron product which exceeds 35% of the solid exterior wall area.
- 3.4 Any Dwelling which is of a kitset, "A" frame or prefabricated nature or a relocatable dwelling house.
- 3.5 Any Dwelling utilising second hand or pre-used materials for exterior cladding or roofing other than slate.
- 3.6 Any Dwelling having external cladding of unrelieved or non-detailed flat sheet fibrolite, hardiflex, galvanised steel, metal sheeting or similar material provided that this restriction shall not apply to the cladding of soffits or gable ends.
- 3.7 Any electric or gas meters, gas and/or hot water units, vent and sewer pipes visible from the Legal Road.
- 3.8 Any garden shed, clothesline or letterbox except such as may be aesthetically acceptable in terms of its design and location.
- 3.9 Any Dwelling or Accessory Building whose colour is not in keeping with the natural environment. Florescent, vivid or highly conspicuous colours will be prohibited.
- 4 A Lot Owner shall not permit or suffer any Dwelling or Accessory Building to remain unfinished for more than 18 months from the date of commencement of construction such that, within that period:
 - 4.1 all exterior work including painting or staining as approved, shall be completed; and
 - 4.2 all driveways, paths, fences and other landscape features shall be completed and installed in accordance with the plans approved by the Developer.
- 5 During the course of construction neither the Lot Owner nor the Lot Owner's servants, agents or contractors shall use any adjacent lot or any reserve for access to the Lot at any time and, in particular, for the delivery of building materials to the Lot. The Lot Owner shall be liable for reinstatement of any berm, road, landscaping, drainage swale, access, Lot or any reserve caused by the Lot Owner, or the Lot Owner's agents, servants, contractors or subcontractors at any time during the course of construction or otherwise.
- 6 If a kerb and crossing have already been installed, it must be protected by the Lot Owner, by:
 - 6.1 laying down a protective layer of sand followed by a layer of base course material to a thickness that will ensure no damage occurs to the underlying crossing and footpath; and
 - 6.2 laying down the sheets of steel provided by the Developer, at no cost to the Covenanter, that will ensure no damage occurs to the underlying crossing and footpath.

- 7 The Lot Owner must also be responsible for the reinstatement, repair and replacement and all associated costs arising from damage to the Subdivision Infrastructure or to any fences or neighbouring Lots caused from the Lot Owner or their agent's and invitees' direct or indirect use of the Lot and the Lot Owner agrees to keep the Developer indemnified, free and harmless from any claim, liability, cost, expense, loss or action incurred by the Developer arising directly or indirectly out of such damage.

Fencing

- 8 The Lot Owner shall not:
- 8.1 Permit to be erected on the Lot any fence or boundary wall:
- (a) that exceeds 1.8 metres in height above the finished ground level of any Lot;
 - (b) that exceeds 1.2 metres in height within 3 metres of the front boundary of a Street Lot;
 - (c) that exceeds 1.2 metres in height within 1 metre of the side boundary of a Right of Way Lot;
- 9 The Lot Owner acknowledges and agrees:
- 9.1 that the Developer shall not be liable to contribute to the cost of any Fence erected on the Lot.
- 9.2 All fencing on any Lot must comply with the Covenants in place from time to time prepared by or on behalf of the Developer which are applicable to their Lot. The Lot Owner of Lot 4 and 5 must have a wooden fence post design.
- 9.3 Will provide the specifications for the Fencing to the Developer to approve before construction of the Fence commences, in accordance with clause 2.1.
- 10 Subject to clause 8 above, the Lot Owner of Lot 4 and Lot 5:
- 10.1 Acknowledge and agree that the Developer will erect a stone fence on the corner of the property. Such corner fences on Lot 4 and Lot 5 will be at the cost of the Developer.

Landscaping and Driveway

- 11 The Lot Owner shall not:
- 11.1 Construct a driveway having materials other than permanent, dust-free solid materials such as coloured stamped/stencilled or exposed aggregate concrete, asphaltic concrete, decorative stones, cobblestones, interlocking pavers or similar.
- 11.2 Plant or allow to grow on the Lot any:
- (a) tree or shrub or other vegetation listed on the Schedule of Pest Plants maintained by Environment Canterbury or the Local Authority.

- (b) any row of trees or Hedge which is located on or adjacent to a boundary to a height in excess of 2.0 metres above ground level.
- 11.3 Permit or allow any part of any tree, hedge or other vegetation to grow to a height which, were such tree, hedge or other vegetation part of a Dwelling would cause it to protrude through the recession plane applicable for buildings under the Ashburton District Council building codes for the Lot In the event that any tree, hedge or other vegetation shall exceed this restriction then it shall be reduced in height to the specified limit.
- 11.4 Permit or permit grass or weeds to grow to a height exceeding 150mm or allow any noxious substances, noxious birds or animals on the Lot which may be likely to cause nuisance or annoyance to neighbouring occupiers.
- 11.5 Permit any area lying between the front boundary of the Lot and the Legal Road to remain in an unkempt and untidy state nor permit grass or weeds to grow to a height exceeding 150mm on that area.
- 11.6 No tree, shrub or other plant of any variety whatsoever is to be grown to exceed a height of 5.5 metres on any Lot.

Maintenance

12 The Lot Owner shall not:

- 12.1 Permit or allow any rubbish, including builders' waste material, to accumulate or to be placed upon the Lot, any adjoining land or any reserve land. The Developer shall have the right to remove any building materials from the Lot any adjoining Lot or any reserve land with reasonable costs plus a margin of 25% (GST exclusive) to be met by the defaulting Lot Owner.
- 12.2 Permit or suffer any advertising sign or hoarding of a commercial nature (including real estate signage pending sale and builder's signage during construction) without the prior consent in writing of the Developer. All signage shall be professionally manufactured and installed and shall not exceed 2.88m² in aggregate area per Lot.
- 12.3 Suffer any dog or other pet to be kept in or about the Lot, which dog or other pet is likely to cause a nuisance or annoyance to neighbouring occupiers or detract from the Development and the keeping of pigs, battery chickens and pigeons is expressly prohibited.
- 12.4 Permit or suffer any activity of a commercial nature in or about the Lot including, by way of example, but not limited to:
 - (a) the use of the Lot for institutional residential purposes. For the purposes of this clause "*institutional residential purposes*" shall include but not be limited to the use of the Lot for housing purposes by central or local government agencies or public or private health sector agencies, in all cases without the prior written consent of the Developer.

12.5 The Lot Owner will not:

- (a) Allow any Building or structure on the Property to become dilapidated or to fall into

disrepair or to cause any damage or harm to any other neighbouring properties.

- (b) Allow any nuisance or unreasonable disturbance to be caused to any Lot Owner or occupier of neighbouring properties.
- (c) Move, damage or remove any survey pegs or markers on the Property and in the event of any breach of this restriction, the Lot Owner will, at their own cost, have such pegs or markers replaced by a registered surveyor.
- (d) Allow the Property to become littered, overgrown or unsightly to the intent that the Property is to be maintained in a neat and tidy condition, nor allow any noxious weeds (including gorse, blackberry or ragwort) to grow on the Property.

Creation of Land Covenant

- 13 The Lot Owner for itself and its successors in title covenant and agree with the Developer for the Benefiting Lots that the Lot Owner will at all times observe and perform all these Covenants to the intent that each of the Covenants will ensure for the benefit of and be appurtenant to each and all of the Benefiting Lots and each and all of the Lot Owners provided that the Lot Owner will be liable only for breaches of these Covenants which occur whilst the Lot Owner is the registered proprietor of the Property or any part of the Property.
- 14 If there should be any breach or non-observance on the Lot Owner's part of any of these Covenants and without prejudice to any other liability which the Lot Owner may have to the Developer and any person or persons having the benefit of those Covenants, the Lot Owner will, upon written demand be made by the Developer or any of the Lot Owners:
 - (a) pay to the person making such demand as liquidated damages the sum of \$100.00 per day for any such breach or non-observance of these Covenants contained in this Instrument continues after the date upon which written demand has been made; or
 - (b) repaint any Dwelling, Building, structure or improvement repaired or completed in breach of these Covenants; or
 - (c) remove or cause to be removed from the Property any Dwelling, garage, Building, fence or other structure erected or placed on the Property in breach for non-observance of the above Covenants; or
 - (d) replace any building materials used in breach of these Covenants.

Enforcement

- 15 If there is any breach or non-observance of any of the foregoing Covenants (and without prejudice to any other liability which the Lot Owner may have to any other person having the benefit of these Covenants) the Lot Owner in breach agrees to and will, at their cost with respect to each individual breach;
 - 15.1 Upon written notice being given by the Developer (or its agent) to the party in breach, pay to each such notice giver agreed liquidated damages in the sum of \$100.00 (one hundred dollars) per day for every day that such breach or non-observance continues after the date 30 days after the date upon which each written notice had been delivered to the Lot Owner; and

- 15.2 Forthwith upon receipt of such notice remove or cause to be removed from the land any Building, Landscape Feature or other item erected on the Covenantor's land in breach or in non-observance of the foregoing Covenants; and
 - 15.3 Forthwith upon receipt of any such notice replace any such building materials or other non-confirming item used in breach or non-observance of the foregoing Covenants with the approved materials; and
 - 15.4 Carry out such other remedial work specified in the notice and any other work so as to remedy such breach or non-performance of these Covenants.
- 16 The Lot Owner agrees that the Developer shall not have any responsibility or liability for the enforcement, enforceability, applicability or lack of action with respect to enforcement or applicability of any of these covenants. The Developer does not undertake to enforce or monitor compliance of these Covenants. The Lot Owner also agrees to keep the Developer indemnified, free and harmless from any claim, liability, loss action or inaction arising against it or its agents in this regard.

Dispute Resolution

- 17 Except as relates to the exercise of any approval or consent requested of Developer under these Covenants, and without prejudice to the enforcement provisions of this document, if any dispute arises between or among the parties concerning the Covenants then the parties shall enter into negotiations in good faith to resolve their dispute.
- 18 If the dispute is not resolved within twenty working days from the date on which the parties begin their negotiations, then the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties. If the parties agree, that person appointed may act as an expert and not an arbitrator.
- 19 If an arbitrator cannot be agreed upon within a further ten [10] days, then an independent arbitrator will be appointed by the President for the time being of the Canterbury-Westland Sub-branch of the New Zealand Law Society [or its successors].
- 20 Such arbitration will be determined in accordance with the Arbitration Act 1996 [and its Amendments], Second Schedule, or any enactment passed in its substitution.

Expiry of Covenants

- 21 The parties acknowledge and agree that these Land Covenants shall expire and be of no further effect on the date which is 20 years following the issue of a separate Record of Title for the Lot.