

RESTRICTIVE COVENANTS – TE WHĀRIKI

1. INTERPRETATION

The following Restrictive Covenants are subject to amendments necessitated as a result of final survey plan changes and lot numbering, or local authority approval requirements.

2. THE GRANTOR AND THEIR SUCCESSORS IN TITLE SHALL NOT:

2.1 Subdivision

Further subdivide any Residential Lot (as defined in clause 2.16(a)) on (DP [TBC]) whether by way of cross-lease, unit title, subdivision into separate lots or in any other way PROVIDED HOWEVER that this restriction will not apply to a subdivision which has the effect only of adjusting the boundaries between two adjoining Lots.

2.2 Temporary Accommodation

Permit or suffer the property to be occupied or used as a residence either by the erection of temporary structures or the placing thereon of caravans or other vehicles used for human habitation.

2.3 Use Prior To Completion

Use the property as a residence before all of the following have been provided to the Grantee:

1. A Code Compliance Certificate issued by the Selwyn District Council unless section 362V(2) of the Building Act 2004 applies; and
2. A Producer Statement from a registered drainlayer certifying that all stormwater runoff from the dwelling drains into the Council stormwater network. This provision shall be deemed to have been satisfied 6 (six) months after the issuing of a Code Compliance Certificate for the first dwelling built on the Lot; and
3. The contact details including daytime phone number, email address and postal address for the registered proprietors as recorded on the record of title have been provided to the Grantee; and
4. On an ongoing compliance basis, that any subsequent registered proprietor has provided the same contact details in 2.3.3 above to the following email address prior to or on settlement of purchase: info@saunders.co.nz

2.4 Storage of Vehicles

Store any vehicles on the property (including boats, trailers, caravans and motor-homes) unless contained in a structure that is fully enclosed. Provided that vehicles used for regular transport need not be stored inside when parked but any such vehicle shall only be parked on a sealed surface designed for that purpose.

2.5 Noxious Weeds and Rubbish

Allow the accumulation or housing of any rubbish, noxious substances, noxious birds or animals which may be likely to cause nuisance or annoyance to the neighbouring occupiers or permit grass or weeds to grow to such a height as to become unsightly.

2.6 Animals

Permit any dog or other pet to be kept in or about the property which dog or other pet is likely to cause a nuisance or annoyance to other neighbouring occupiers or detract from the subdivision and in particular, without otherwise limiting this restriction, not to keep on or about the property any dog which in whole or part appears to be a Pit Bull Terrier, Rottweiler, Japanese Akita, Japanese Tosa, Dogo Argentino or Brazilian Fila. The keeping of pigeons is expressly prohibited.

2.7 Signs

Permit any advertisement, sign or hoarding of a commercial nature (excluding a professionally made 'For Sale' sign not exceeding 2 square metres in size) to be erected on any part of the property or dwelling,, including any sign indicating that the dwelling is a Showhome. PROVIDED HOWEVER that the Grantee shall, at its sole discretion, be entitled to exempt one or more lots of its choice from this restriction for a maximum period of 3 (three) years. Under no circumstances shall any signage be affixed to any of the decorative fences referred to in clause 2.9.

2.8 Gas

Allow any portable gas cylinders or bottles to be placed on the Lot which are visible from the road, but this does not apply to gas bottles for use with outdoor barbecues or free-standing outdoor gas heaters.

2.9 Decorative Fences – Reserve Boundaries

In respect of Lots 3147 to 3154, and 3228, 3229, 3231, and 3232:

1. Remove or modify the decorative steel railing fences on the boundary between the Lot and the adjoining Reserve; and
2. Build or permit to be built any building or structure within 2 (two) metres of the boundary between the Lot and the adjoining Reserve. In this context a building or structure shall not include a swimming pool or any structure the sole purpose of which is for landscaping but shall include any additional fencing.

2.10 Dwelling Height

On any of the Lots other than Lot(s) 3103 and 3116, erect a dwelling greater in height than a single storey. However the Grantee may, at the Grantee's sole discretion, approve plans that have living areas situated within the roof cavity of a dwelling PROVIDED THAT there are no windows set into the roofline or gable area and that the only natural light permitted into the roof cavity is from skylights set into the roof. Any such approved dwelling plans shall not be deemed to be in breach of this clause by virtue of having living areas situated within the roof cavity.

2.11 New Materials

Erect or permit to be erected on the Lot any building using anything other than new materials PROVIDED THAT second-hand bricks may be allowed for exterior cladding at the Developer's discretion. No pre-lived in or pre-built dwelling shall be transported on to the Lot.

2.12 Non-permitted Cladding Materials

Construct any building on the Lot with an external cladding of unrelieved flat sheet fibrolite, hardiflex, galvanised steel or similar materials PROVIDED THAT this restriction shall not apply to the cladding of some soffits or gable ends.

2.13 Painting

Leave the outside of any dwelling unfinished, or any exterior walls or doors unpainted or unstained PROVIDED THAT this clause shall not apply where natural timber cladding or decorative brick, stone or concrete are used.

2.14 Building Materials

Use as a roofing material any material other than tiles (clay, ceramic, concrete, decramastic, pre-coated pressed steel) of a single colour or pre-painted long-run pressed steel (the use of zincalume shall not be permitted), nor exterior cladding of material other than clay brick, weather-board, concrete block, masonry, stucco, solid plaster or glazing or a combination of the above. Preferred building materials are detailed in the Developer's Design Guidelines.

2.15 Fencing Materials

Erect or permit to be erected on the land any fence or boundary wall of any material containing cement board sheets or panels, corrugated iron, or metal sheeting.

2.16 Boundary Fencing

a) Interpretation

"Double Frontage Lots" means Lots 3146, 3147, 3116, 3117, 3101, 3103, and 3127.

"Maximum Length" means 50% of the length of the Road Boundary.

"Residential Lots" means all Lots on DP TBC excluding any Lot shown as Kiosk Site, Road or Reserve.

"Road Boundary" means a boundary between a Lot and any legal road.

"Side Boundary" means a boundary between a Lot and an adjoining Lot that is not a Road Boundary.

"Total Length" means the total length of the fence taken in a line parallel to the road.

"Transparent" means able to be seen through either because no solid construction is present or because there are spaces between the elements used in the construction that are at least the same width as the elements themselves.

b) Road Boundary Fencing

The Grantor shall not permit any fence or other structure (other than a letterbox or a fence of the type referred to in clause 2.9) to be erected in the area between the Road Boundary and a line drawn parallel to the Road Boundary with the distance between such line and Road Boundary being determined by those parts of the dwelling closest to the Road Boundary.

c) Road Boundary Fencing – Double Frontage Lots

In recognition of the larger road boundary of these Lots and the desirability of allowing privacy the Grantor shall be permitted to erect a fence closer to the boundary than provided for in clause 2.16(b) so long as the fence is erected at least 1 (one) metre from the road boundary and complies with the following requirements:

- i. The fence is no higher than 1.8 metres above finished ground level. The length of the fence does not exceed the 'Maximum Length'. By way of illustration only, the Grantee acknowledges that a curved fence, or fence that is parallel to the boundary but which has a return, will comply with this restriction notwithstanding that in overall length such fence may exceed the 'Maximum Length'.

d) Side Boundary Fences

Permit any fence to be erected on the common Side Boundaries between any Residential Lots within 1 (one) metre of the point where the side boundary meets the Road Boundary and providing the fence complies with the following requirements:

- i. The fence is a maximum of 1.2 metres in height within 1 metre of the point where the 'Side Boundary' meets the 'Road Boundary', and
- ii. The fence is raked at an angle of 30 degrees until it reaches its maximum height of 1.8 metres above finished ground level.
- iii. Notwithstanding clauses 3.17(a) and (b) above, the common 'Side Boundary' fences between the following Lots shall be exempt from the provisions of these clauses: Lots 3146 & 3116; 3117 & 3118; 3126 & 3127; and 3103 & 3104

2.17 Letterbox

Erect a dwelling without contemporaneously erecting a new letterbox of a design, colour and cladding consistent with the dwelling, or as approved by the Developer in accordance with clause 2.20.

2.18 Completion of Landscaping, Driveways and Paths

Permit the dwelling to be occupied unless all driveways and paths are completed in permanent materials, all wooden boundary fences are stained or painted and all unpaved areas are properly grassed or landscaped.

2.19 Satellite Dishes / Air Conditioning Units

1. Place or allow to be placed on the land or buildings any aerials or satellite dishes unless the same comply with the following requirements:
 - a) Have a maximum diameter of 1 (one) metre; and
 - b) Are situated at least 4 (four) metres from the front façade of the dwelling; and
 - c) Are mounted below the ridgeline of the roof.
2. Place or allow to be placed on the land or any part of the buildings any external air conditioning unit visible from the road frontage of the Lot.

2.20 Grantee to Approve Plans

Commence any work on the property:

- a) Without submitting to the Grantee for its approval all building plans, including site plans (showing the position of the vehicle crossing) specifications, external colours fencing,

landscaping plans (which shall be prepared by a qualified landscape designer) and builder. Sole discretion lies with the Grantee in approving building, colours, site plans, specifications, fencing and landscaping plans which shall comply with the Design Guidelines provided by the Developer to the Grantee's satisfaction.

- b) Which does not conform to the plans approved by the Grantee. Any variation to or deviation from the approved plans will be a breach of this clause and subject to the provisions of clause 4.

PROVIDED THAT this clause 2.20 will cease to apply and be of no further effect from the date that a Code Compliance Certificate is issued for the first dwelling to be built on the Lot.

AND FURTHER PROVIDED THAT the Grantor acknowledges that the Grantee has no legal responsibility or liability for the enforcement, enforceability or applicability of these covenants on an on-going basis.

2.21 Construction Fencing

Commence construction until temporary fencing has been erected on the entire length of all unfenced boundaries. The temporary fence must comprise removable wire or shade cloth (or other see-through material), be a minimum of 1.2 metres in height and have a rigid frame and in all circumstances be acceptable to the Developer at their sole discretion, and provide only one vehicle access to the lot from the road or right-of-way.

2.22 Construction Zone Areas

Commence construction until a vehicle crossing of no more than 4 (four) metres width has been installed in a position approved by the Grantee, the kerb cut down at the crossing and the driveway from the road to the Lot formed and suitable based. The Grantor shall not make any use of the adjoining Lots (whether occupied or not), any berms (except at designated crossings) or footpaths for construction work or for access by vehicles.

2.23 Health and Safety Requirements

Permit any construction unless the building site complies with the requirements of the Health and Safety in Employment Act 1992 (or any enactment passed in its substitution) at all times.

2.24 Delivery of Materials

Undertake or permit during the course of construction the loading, unloading, delivery, or storage of building materials other than within the boundaries of the Lot.

2.25 Building Rubbish

Carry out any construction unless an adequate rubbish skip is present at all times (and regularly emptied or replaced) nor allow during the course of construction any rubbish to blow outside the boundaries of the Lot.

2.26 Washing of Vehicles

During the course of construction allow any vehicles to be washed down other than within the boundaries of the Lot.

2.27 Portable Toilet Facility

Permit the Grantor's construction workers or contractors to use the property or any other area on the Plan for toileting purposes. Prior to construction commencing, the Grantor shall provide a suitable portable toilet facility for use by the Grantor's construction workers and contractors.

3. DISPUTE RESOLUTION

- 3.1 Except as relates to the exercise of any discretion, opinion, approval or consent requested of the Grantee under these covenants, if any dispute arises between the parties concerning the covenants, then the parties shall enter into negotiations in good faith to resolve their dispute.
- 3.2 If the dispute is not resolved within 20 (twenty) working days of the date on which the parties began 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.
- 3.3 If an arbitrator cannot be agreed upon within a further 10 (ten) days, then an independent arbitrator will be appointed by the President for the time being of the Canterbury branch of the New Zealand law society.
- 3.4 Such arbitration will be determined in accordance with the Arbitration Act 1996 (and its amendments) or any enactment passed in its substitution.

4. DEFAULT PROVISIONS

- 4.1 If there should be any breach or non-observance of any of these covenants and without prejudice to any other liability which the Grantor may have to any person having the benefit of this covenant, the Grantor will upon written demand being made by the Grantee or any of the registered proprietors of the Lots:
- 4.2 Pay to the person making such demand as liquidated damages the sum of \$100.00 (One Hundred Dollars) per day for every day that such breach or non-observance continues after the date upon which written demand has been made.
- 4.3 Remove or cause to be removed from the land any dwelling, garage, building, fence or other structure erected or placed on the land in breach or non-observance of the above covenants.
- 4.4 Replace any building materials used in breach or non-observance of the above covenants.