



## DRAFT – STAGE 1 COVENANTS

### DEFINITIONS:

**“Developer”** means EB Developments Limited or any other person or persons nominated by EB Developments Limited.

**“Developers Subdivision”** means the land being developed and/or subdivided by the Developer. Including the land currently contained in Records of Title XXX and any other land owned or to be purchased by the Developer.

**“Land”** means the Servient Tenement or any part of it.

**“Local Authority”** means Whangarei District Council.

**“Developer’s Design Committee”** means EB Developments Limited or any other person or persons nominated by EB Developments Limited.

### FENCING COVENANT:

1. The Developer will not be liable to pay for or contribute towards the cost of erection or maintenance of any fence between any lot in the Developer’s Subdivision and any adjoining lot owned by the Developer.
2. The Covenantor agrees to meet the total cost of construction of any fence to be constructed on the boundary of adjoining land if such land is owned by the Local Authority and the Covenantor will not seek contribution from the Developer or the Local Authority.

### LAND COVENANT:

The Covenantor will receive the benefit of these covenants over the other lots in the Developer’s Subdivision and acknowledges that the Land it is purchasing will in turn be bound by these covenants.

The Covenantor acknowledges and agrees with the Developer that each section in the Developer’s Subdivision forms part of a development which is intended to be established as a modern and well-designed subdivision and it is desirable that supervision and control be exercised by the Developer to achieve these objectives.

The Covenantor will be bound by these covenants, although the Developer may in writing, at the sole and unfettered discretion of the Developer, waive part, any or all of these covenants, on such terms and conditions as the Developer may require.

1. Developer’s approval
  - 1.1 The Covenantor acknowledges that their house must meet the design criteria set out in the Developer’s Residential Design Guidelines.
  - 1.2 Prior to submitting a resource consent application or a building consent application (as the case may be) to the Local Authority for the necessary approvals, and prior to the commencement of construction, the Covenantor of each Lot shall obtain the written approval from the Developer’s Design Committee to their building plans and landscaping plans and in particular approval in respect of the:
    - (a) Site plan showing driveways, fencing, building location, patios and a basic landscape layout showing positions of trees, planting beds and grass areas;
    - (b) Floor plans of the house;



- (c) A full set of elevations of the house from all sides; and
- (d) A materials palette sheet indicating all exterior materials and colours.

And shall pay to the Developer a design review fee of \$250.00 including GST.

- 1.3 In approving any plans and specifications the Developer's Design Committee may take into account the appearance of the proposed building in relation to other buildings which have been constructed or for which plans have already been approved to the intent that there should be a range of styles, designs and appearances of buildings within the Developer's Subdivision.
- 1.4 Such approval may be withheld in the event that in the opinion of the Developer's Design Committee, whose decision in this respect will be final and binding, the building or structure to be erected on the Land is not, or is not likely to be of an appearance or standard with regard to design, materials and colour which is consistent with the Developer's intention to create and maintain a modern and well-designed residential subdivision. In giving approval the Developer's Design Committee does not accept liability for the quality or workmanship of the construction or the materials used.
- 1.5 In the event the Developer's Design Committee is no longer in existence at the time of preparing new building plans, then the Covenantor shall supply a written statement from a New Zealand Registered Architect to confirm that the residential unit design is consistent with these covenant conditions and is appropriate in terms of urban design guidelines.

2. The Covenantor covenants to:

*Building requirements*

- 2.1 Not build any building other than a single new dwelling house with attached garage;
- 2.2 Construct any building in only new materials;  
Construct any building with a minimum floor area of 160 square meters (excluding decking, entry porches, verandas or roofing overhang);
- 2.3 Construct any building to a shape other than a simple rectangle (after excluding recess or protrusions for the front and rear entries, verandas, patios, bay windows or other like structures or appurtenances); and will contain a minimum of one gable;
- 2.4 Any dwelling or garage wall predominantly facing the road frontage must include at least one window or feature element;
- 2.5 Locate any attachments (including but not limited to television antenna, satellite dishes, solar panels, air-conditioning units, clotheslines) around the building so they are not highly visible to the road;
- 2.6 Place the front door so it is identifiable from the street;
- 2.7 Locate stormwater attenuation tanks so they are not visible from the road unless they are screened and approved by the Developer;

*Materials*

- 2.8 Construct any building with:
  - (a) No more than 70% of the street frontage of the dwelling in a single building material;
  - (b) The following materials: kiln fired clay or concrete brick, concrete blocks, textured plaster finish, stone, Linea or Timber Weatherboard with a minimum erected width not exceeding 150mm, or any other external cladding finish approved in writing by the Developer (substitution of these materials will be at Developer's discretion);



- (c) All exterior surfaces (which are not pre-colour coated or finished) are painted, or stained prior to the building being occupied. Where a building has exposed subfloors, framing and/or decks, the exposed areas shall be clad in permanent materials in conformity with the main parts of the residence;
- (d) Any wall of the building predominantly facing the road frontage must include at least one gable end, window or feature;
- (e) The finished permanent colour(s) of exterior cladding in a colour scheme that will blend with the environment and be nonreflective;
- (f) The roof with prepainted Colorsteel, concrete or metal tiles. No unpainted roof shall be allowed on any building;
- (g) The driveway and any other access ways in a permanent surface; all driveways between the kerb edge and the front boundary of the property are to be constructed or exposed aggregate or plain concrete matching the footpaths in that precinct of the Developers Subdivision, the balance of the driveway within the property can be constructed of either matching exposed aggregate or plain concrete with a minimum 3% black oxide content and such surfacing will be carried out in a proper tradesman-like manner.

#### *Fencing*

- 2.9 Not construct a fence or let any living hedge exceed:
- (a) 1.2 meters in height from the completed subdivision contours on the road frontage and within 3 meters from the front boundary; and
  - (b) 1.80 meters in height from the completed subdivision contours on any other boundary.
- 2.10 Not construct any sold timber fencing along any street boundary and within 3 meters from the front boundary, and have less than 30% visual permeability spread evenly across its face;
- 2.11 Not construct a fence or boundary wall of shade cloth, netting, iron or steel of any profile, un-textured fibre cement panels, fibrolite, plywood, post and rail or post and wire. Consent to use other than new materials (but not corrugated iron) may be given by the Developer if the registered proprietors of all properties adjoining the boundary on which such fence is to be erected have given written consent;
- 2.12 Place a letter box within the front boundary fence (when constructed), freestanding letter boxes when fencing is not constructed to be to the Developer's discretion.

#### *Construction*

- 2.13 Complete construction of the building (including driveway and access ways) within 12 months of laying down the foundations of the building.
- 2.14 Complete the landscaping (including paths and fencing) within 18 months of laying down the foundations of the building.
- 2.15 Not permit the building to be occupied or used as a residence unless the dwelling house has been substantially completed and meets the requirements of the Local Authority.

#### *Land Use*

- 2.16 Not to further subdivide the lot or create a unit title or cross-lease in respect of any building on the Land. However, the Developer may approve amalgamation of titles but the Covenantor should first make their own enquires at their own cost as to the ability of such amalgamation;



- 2.17 Not permit the Land or any building on the Land to be used for any trading or commercial purposes unless that purpose is a permitted activity under the relevant district plan and complies in all respects with the district plan and the requirements of the territorial authority/local authority/council in which the area the Land is situated.

*Enhancement of the Land*

- 2.18 Keep the Land free of rubbish and in a tidy manner;
- 2.19 Keep grass tidy at all times;
- 2.20 Not allow any trees to grow above 5 meters in height or any other landscape feature exceed 2.5 meters in height;
- 2.21 Not allow any temporary dwelling, caravan, trade vehicle or other equipment on the Land unless garaged or screened;
- 2.22 The Covenantor will not keep or permit to be kept or to take or permit to be taken upon or on the Land any vehicle (as that provision is defined by the Land Transport Act 1998) which has a weight of over 2 tonnes, provided that this will not prevent such vehicles being taken onto the Land for the purposes of building operations being carried out on the Land or for the delivery or collection of goods which are to be or have been used in connection with the residential use of the Land;
- 2.23 Raise, breed or keep any animal or livestock on the Land or in any building on the lot other than 2 domestic animals limited to cats, dogs, reptiles, fish, rodents and birds;
- 2.24 Not allow any signs or hoardings to be erected or be placed on the Land provided that:
- (a) During construction of any dwelling on the Land up to two signs may be erected for the purpose only of advertising builders or building supplies; and
  - (b) On the sale of the Land up to two signs may be erected for the purpose of advertising the proposed sale.

*Further Development*

- 2.25 Not object to, frustrate, hinder, or prevent, any lawfully authorised subdivision or development undertaken or to be undertaken by the Developer or any person nominated by the Developer on the Land or any other land acquired or to be acquired by the Developer.
- 2.26 Not object to, lodge a submission or appeal objecting to, frustrate, hinder or prevent any application for resource consent, building consent, or plan change or variation by the Developer, or any such application supported by the Developer to undertake any subdivision or development of the Land or any other land acquired or to be acquired by the Developer.
- 2.27 Support and provide its unconditional consent to any application for resource consent, building consent, or plan change or variation by the Developer, or any application supported by the Developer or to undertake any subdivision or development of the Land or any other land acquired or to be acquired by the Developer, and will upon request from the Developer, execute all documents and do all things necessary to provide such unconditional consent as may be required by the Developer in that regard.
3. The Covenantor acknowledges that the value of the Land will be affected by the failure to comply with these covenants and therefore covenants personally and for the Registered Proprietor's executors and administrators and assigns that if the Covenantor fails to comply with, observe, perform, or complete any of the special conditions and/or covenants and restrictions contained in these covenants, then the Covenantor may serve written notice on the Covenantor requiring the Covenantor to remedy the breach of covenant within seven (7) days of the service of the notice. If the breach is not remedied within the period stipulated the Covenantor shall pay to the





party issuing the notice the sum of \$50.00 including GST per day until such time as the breach is remedied and shall in addition pay all costs incurred by the party issuing the notice including all professional and legal costs calculated on a solicitor/client basis.

4. The Covenantor will only have liability hereunder while they are the registered proprietor of the Land.
5. The land covenants provided for herein shall remain in force until 15 years from the date of registration of this Covenant Instrument.
6. Dispute Resolution:
  - 6.1 If a dispute in relation to any covenant arises between the parties who have a registered interest under these covenants:
    - (a) The party/parties initiating the dispute must provide full written particulars of the dispute to the other party/parties;
    - (b) The parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
    - (c) If the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties):
      - (i) The dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
      - (ii) The arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

