

Building Covenants – Beachwood Estate, Hatfields Beach

THE Purchaser acknowledges and agrees with Cabra Developments Limited (hereinafter referred to as “Cabra”) that each lot in Cabra’s subdivision (“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 Cabra for the protection of and in the interests of all Purchasers in relation to the nature and type of construction to be permitted in the subdivision and the standard of surroundings being maintained. In recognition of these objects the Purchaser for his lot and for the benefit of all other residential lots comprised in the subdivision DOES HEREBY AGREE with Cabra and will covenant whether by deed, transfer or otherwise as required, with Cabra, or such other person or persons as are nominated by Cabra (including its successors in title) for the Purchaser and his executors, administrators, transferees, assigns and successors in title in relation to the lot purchased as follows:-

- (i) Not to commence any construction, development, earthworks or fill on any Covenanting Lot without having first obtained the written approval of Cabra to the plans and specifications and the exterior design and appearance of the proposed building and any proposed earthworks or fill and once approval is obtained, make any change to the plans and specifications or the exterior design and appearance of the proposed building or proposed earthworks or fill.
- (ii) As a guide houses should be designed so as to fit with the existing land contours so that limited earthworks (cutting or filling) is required, which may necessitate part basement structures or house designs with basement garaging and which are sympathetic to and appropriate for the site.
- (iii) Not to use or permit any Covenanting Lot to be used for:
 - a. any trading or commercial purpose other than that permitted by the local authority and which has the prior written consent of Cabra which may be withheld at its absolute discretion or
 - b. display or showhomes except with the prior written consent of Cabra which may be withheld at its absolute discretion or which may be granted subject to conditions imposed by Cabra at its absolute discretion.
- (iv) Not to allow the duration of any building construction works on any Covenanting Lot to extend beyond the period of 12 months from the date of commencement of such works.
- (v) Not to erect or place or permit to be erected or placed on any Covenanting Lot anything other than a single dwelling house having closed in habitable living space (exclusive of carport or garage) with a floor area of less than 140m² and which must also have attached, closed in double car garaging or such other garaging that is approved in writing by Cabra at its discretion.
- (vi) Not to incorporate into the design of the single dwelling house any ancillary accommodation in the nature of a granny flat or a self-contained flat:
 - a. unless it is permitted by the local authority; and
 - b. without the prior written consent of Cabra which may be withheld at its absolute discretion; and
 - c. unless it is confined within the overall roofline of the single dwelling house and does not give the external appearance of comprising a separate unit
- (vii) and the purchaser shall not subdivide any such ancillary accommodation into a separate title whether fee simple, unit title, crosslease or otherwise.
- (viii) Not to use or permit or suffer to be used on any building on any Covenanting Lot any building material other than brick, stone, concrete block, insulclad, masonry, stucco, solid plaster, linea weatherboard or approved timber weatherboard for any outer wall facing except with the written consent of Cabra which may be withheld at its discretion.
- (ix) Not to use or permit or suffer to be used any second-hand materials in any building on the Covenanting Lot nor use any unpainted corrugated iron roofing or corrugated iron or zincalume of any description on the exterior of the building without in each case the consent in writing of Cabra which may be withheld at its discretion.
- (x) Not to use or place or permit to be erected, transported or placed on any Covenanting Lot any second-hand home of any type or description.
- (viii) Not to bring on to or to allow to remain on the land (except during the time of construction of the dwelling house) or on any road of the subdivision any temporary building, garden shed, caravan, trade vehicle or other equipment or materials or machinery unless garaged or adequately screened so as not to be highly visible from the road and neighbouring properties, so as to preserve the amenities of the neighbourhood and also to prevent noise likely to cause offence to residents in the subdivision. No recreational or commercial vehicles or trailers are to be regularly located either on the street or footpath nor on that area between the front boundary of the land and the dwelling unless screened so as not to be highly visible from the road. No caravan or motorhome shall be placed on the said land to be used for residential use other than for short term occupation of visitors.
- (ix) Not to erect or permit or suffer to be erected or placed upon any Covenanting Lot any building where the basement (including but not limited to basement garage) is not fully enclosed to the reasonable satisfaction of Cabra.
- (x) Not to allow any grass or weeds on any Covenanting Lot to grow to a height greater than 150mm and if he defaults in so doing, Cabra may take whatever action it considers necessary to remedy the default at the expense of the purchaser and if the purchaser fails to pay Cabra upon demand for all costs so incurred Cabra may recover the cost thereof from the purchaser as liquidated damages in any Court of competent jurisdiction.
- (xii) Not to erect or permit to be erected on any Covenanting Lot any fence or boundary wall higher than 1.2 metres within five metres of any road boundary without the prior written approval of Cabra. If approved Cabra may stipulate the design and materials required at its sole discretion.
- (xiii) Not to permit any dwelling house on any Covenanting Lot to be occupied for more than six calendar months unless all driveways, paths and fences are completed in permanent materials and all unpaved areas are properly grassed or landscaped.
- (xiv) In respect of native planting and bush on areas marked B-F on the attached plan located on lots 27, 30-33 inclusive
 - a. Not to allow the planting to be destroyed or removed without the consent of the Rodney District Council and the written consent of Cabra which may be withheld at its absolute discretion.
 - b. If any trees or shrubs forming part of this planting are damaged or die the purchaser is responsible for replacing these with similar species.

- c. The purchaser is responsible for maintaining this planting
- (xv) To ensure that within 6 months of following substantial completion or occupation of a dwelling house on the property that a minimum of 5% of the net site area is developed with landscaped gardens and that a minimum of 5 trees or shrubs of at least 2m in height are included within the landscaped areas. The 5% landscaping requirement of net site area shall not apply to lots 27 or 30-33 inclusive due to the presence of protected bush on these lots.
- (xvi) Not to carry out any earthworks (either cutting or filling) in excess of 1m height or depth within 1 metre of any adjoining lot boundary unless such works have been consented to in writing by Cabra which may be withheld at its absolute discretion.
- (xvii) Not to Undertake any construction works on the Covenanting Lot without at all times complying with the following conditions and restrictions:
- a. To keep the Covenanting Lot in a tidy orderly and safe condition throughout the construction period.
 - b. Maintain the Covenanting Lot at all times during the course of construction free from rubbish and excessive vegetation.
 - c. Not to store or dump any construction materials or debris on any adjoining lot or cross any adjoining lot for goods or vehicle access unless consent has been granted by Cabra in writing and the adjoining lot owner.
 - d. Not allow major site works to commence unless a vehicle crossing and access drive for construction vehicles has been formed in metal aggregate or an alternative material as Cabra may approve at their discretion.
 - e. Not allow rubbish to be placed or escape onto adjoining or nearby lots or roads.
 - f. Not deposit or allow any dirt gravel clay or other substance to be left on any road in the vicinity of the covenanting Lot.
 - g. To contain on the lot any silt generated during the construction of the dwelling house.
 - h. Not to damage or remove any street trees planted by Cabra on or adjacent to the Covenanting Lot. The purchasers will be responsible for any damage caused to the trees by themselves or their contractors.
- (xviii) Not to construct erect or place any water storage tank on the Covenanting Lot unless it is either:
- a. buried or
 - b. screened by fencing or planting to the satisfaction of Cabra in its sole and unfettered discretion.
- (xix) Not to erect or place or permit to be erected or placed on any covenanting lots any clothes line in the front yard of that covenanting lot or that is visible from the road. As a guide clothes lines or service courts should be adequately screened by sufficient planting and/or fencing to ensure they are not visible from other covenanting lots, access lot or public areas.
- (xx) The final colour of the exterior cladding of those areas of the dwelling house facing all street frontages is to be of subdued or non-vibrant colours unless otherwise approved in writing by Cabra.
- (xxi) Not to allow to remain on any walls, fence, structure or building on the property any graffiti or similar disfiguring for more than five working days from the date that such graffiti or disfiguring occurred.
- (xxii) To locate any attachments to the dwelling house and buildings (including but not necessarily limited to television antenna, satellite dishes and solar hot water panels) so they are not highly visible from the road or any common access lot.
- (xxiii) In respect of lots 27, 30-33 inclusive where a post and rail fence is to be erected on the boundary of these lots fronting Otanerua Road, the purchasers of these lots shall:
- a. not damage, remove or interfere with the fence without the written consent of Cabra
 - b. repair the fence with similar building materials if it is damaged within 30 working days of the damage occurring
- (xxiv) In respect of any common access lot in which the purchaser owns a share:
- a. use the access lot only as an access lot except for those areas on the access lot being parking bays and marked and identified as visitor carparks which may only be used for casual parking for visitors only.
 - b. not place any building or structure on the access lot.
 - c. not park or leave any vehicle or other thing on any part of the access lot so as to obstruct its use by any other person entitled to use the access lot, and not permit or suffer any servant, agent or visitor of the purchaser to do so.
 - d. the purchaser shall bear the cost of maintaining the access lot in good order, repair and condition in equal shares in common with the registered proprietors who own an undivided share of the access lot provided that where the need to maintain or repair the access lot arise from any wilful or negligent act of a registered proprietor or authorised person of a registered proprietor then that registered proprietor shall bear the whole cost of such maintenance or repair.
- (xxv) In respect of any site that has been landscaped or planted by Cabra and in respect of trees or shrubs situated on the berms adjacent to the site:
- a. Existing vegetation is to be maintained by the purchaser
 - b. If any trees or shrubs forming part of the landscaping are damaged or die the purchaser is responsible for replacing these with similar species.
 - c. Such planted areas can only be removed or replaced with alternative planting if Cabra's written approval has been obtained.
 - d. Existing vegetation shall be credited against the 5% landscaping requirement under (xv) above.
- (xxvi) In respect of the following height covenanted lots the purchaser shall not build or erect any building or other structure or allow any plant or tree to grow above the reduced level stipulated below such levels being in terms of Lands and Survey datum (MSL Auckland 1946). In the event that any proposed building or structure located on any of these height covenanted lots is within 0.60 metres of those levels a surveyors report must be provided to Cabra upon completion of the final roofline for the dwelling certifying that the highest point of the dwelling does not exceed the height restriction level in respect of that lot.
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| a. | Height Covenanting Lots | Reduced Level |
| b. | Lot 2 | 19.6 |
| c. | Lot 3 | 20.6 |
| d. | Lot 6 | 22.6 |
| e. | Lot 7 | 25.6 |
| f. | Lot 11 | 27.8 |
| g. | Lot 12 | 29.6 |
- (xxvii) Where Cabra has been dissolved or wound up or otherwise passed out of existence, "approval by Cabra" shall mean approval by any party appointed and/or nominated by Cabra for this purpose.

These covenants shall run with the land until the 1st January 2050 (at which time they shall expire and be of no further effect) and shall be at the discretion of Cabra incorporated in any Memorandum of Transfer to the Purchaser executed pursuant to an Agreement for Sale and Purchase or in the alternative the covenants may be added to the title to each lot by Cabra, prior to issue of title AND THE PURCHASER DOETH HEREBY COVENANT with Cabra that if the Purchaser shall transfer, assign or otherwise dispose of his interest in the land then he shall make such transfer, assignment or disposition subject to the provisions of the clause in the Agreement for Sale and Purchase and shall procure from the transferee or assignee a Deed of Covenant in favour of Cabra whereby such Purchaser or assignee undertakes to fulfil the Purchaser's obligations under the clause in the Agreement for Sale and Purchase.

The Purchaser covenants that the Purchaser will at all times be responsible for and keep Cabra indemnified from all proceedings, costs, claims and demands in respect of breaches by the Purchaser of any of the stipulations, restrictions and covenants contained in the preceding clauses.

If there should be any breach or non-observance of any of the foregoing covenants and without prejudice to any other liability which the Purchaser may have to any person having the benefit of this covenants, should the Purchaser not rectify the breach or non-observance of any of the foregoing covenants within 15 working days of written demand being made by Cabra or any of the registered proprietors of the Lots, then the Purchaser will:

- a. pay to the person making such demands as liquidated damages the sum of \$200 per day for every day that such breach or non-observance continues after the date upon which written demand has been made together with any costs and expenses incurred by Cabra or any registered proprietor to remedy the breach or non-observance;
- b. remove or cause to be removed from the land any dwelling house, garage, carport, building or other structure erected or placed on the land in breach of non-observance of the foregoing covenants;
- c. replace any building materials used in breach or non-observance of the foregoing covenants.
- d. cease any activity in breach of these covenants.