

## LAND COVENANTS

### Stonebrook, Stages 8, 9, 10, 11 and 12 (Marketing Stage 5)

**These land covenants bind Lots 143, 144, 164-185, 187-218 and 227-246  
(being the residential lots in this Marketing Stage)**

#### **EXPLANATORY NOTES:**

*The explanatory notes and missing information in square brackets will be removed/completed, and the text will be added to a Land Information New Zealand standard form, before the land covenants are noted against the titles.*

*References to "**Neighbours**" mean the other residential sections within Marketing Stage 5 (or if Marketing Stage 5 is completed in substages, then within the relevant substage) of the Stonebrook Subdivision.*

*The current stage is Marketing Stage 5, but is described as stages 8, 9, 10, 11 and 12 in the subdivision consents. Marketing Stage 5 may be titled as a single stage or in two or more substages.*

#### **Scope and definitions**

- 1 The Grantor [the Purchaser] hereby covenants and agrees with the Grantee [Neighbours] in the manner set out below so that such covenants shall:
  - (a) Burden and run with each of the Servient tenements referred to in Schedule A [i.e. Lots 143, 144, 164-185, 187-218 and 227-246, or (if there are two or more substages) then those of the listed lots which are within the relevant substage]; and
  - (b) Be for the benefit of and appurtenant to each of the Dominant tenements referred to in Schedule A [i.e. Purchaser's title and Neighbours' titles].
  
- 2 For the purposes of this instrument the following terms have the following meaning (unless the context otherwise requires):
  - (a) "**corner section**" means Land which (in the reasonable opinion of the Developer) has two legal road frontages;
  - (b) the "**continuous length**" of a fence includes:
    - (i) any attached fence return within two metres of the road boundary; and
    - (ii) any gate attached to the fence;
  - (c) "**Developer**" means CDL Land New Zealand Limited or its nominee, or if CDL Land New Zealand Limited ceases to exist and there is no nominee, means any director of CDL Land New Zealand Limited immediately before that company ceased to exist;
  - (d) "**erected**" and "**erection**" includes installation of a relocatable building;
  - (e) "**fence**" includes a wall; and
  - (f) "**Land**" means each of the Servient tenements described in Schedule A [i.e. Lots 143, 144, 164-185, 187-218 and 227-246, or (if there are two or more substages) then those of the listed lots which are within the relevant substage].
  - (g) "**Subdivide**" means subdivide or subdivided within the meaning of the Resource Management Act 1991 or any modification, amendment or re-enactment of it.

### Restrictions on development and use of the Land

- 3 The Grantor [the Purchaser] shall, in relation to any Land owned by the Grantor [the Purchaser]:

#### *Dwelling size and garaging*

- (a) Not erect or permit to be erected on the Land any dwelling unless both of the following apply:

- (i) the dwelling has fully integrated garaging:

- (A) with a minimum garage door width of 3.6 metres, for Land in a title containing less than 400m<sup>2</sup>; or
- (B) with (at least) a double garage, for Land in a title containing 400m<sup>2</sup> or more;

and

- (ii) the dwelling has a floor area (including the floor area of the fully integrated garage, and taken over all of the framing plate not over the foundation) of more than:

- (A) 120m<sup>2</sup> on Land in a title containing less than 400m<sup>2</sup>;
- (B) 130m<sup>2</sup> on Land in a title containing between 400m<sup>2</sup> and 499m<sup>2</sup> (both inclusive);
- (C) 140m<sup>2</sup> on Land in a title containing between 500m<sup>2</sup> and 599m<sup>2</sup> (both inclusive);
- (D) 150m<sup>2</sup> on Land in a title containing between 600m<sup>2</sup> and 649m<sup>2</sup> (both inclusive);
- (E) 165m<sup>2</sup> on Land in a title containing between 650m<sup>2</sup> and 699m<sup>2</sup> (both inclusive); and
- (F) either:
- a. 160m<sup>2</sup> on Land in a title containing 700m<sup>2</sup> or more if the Grantor's [Purchaser's] Land is any of Lots 178-185 and 187-213 on Deposited Plan **[DP NUMBER FOR MARKETING STAGE 5 OR RELEVANT SUBSTAGE FOR SUBDIVISION CONSENT STAGES 9 AND 10]**; or
- b. 180m<sup>2</sup> on Land in a title containing 700m<sup>2</sup> or more if the Grantor's [Purchaser's] Land is any of Lots 143-144, 164-177, 214-218 and 227-246 on Deposited Plan **[DP NUMBER FOR MARKETING STAGE 5 OR RELEVANT SUBSTAGE FOR SUBDIVISION CONSENT STAGES 8, 11 AND 12]**.

#### *Dwelling construction*

- (b) Ensure that the perimeter (on a horizontal plane) of the roof of any dwelling on the Land shall not form a rectangle unless the roof contains at least one roof break or full valley.
- (c) Ensure any dwelling on the Land has at least 80% of its non-glazed exterior cladding in any one or more of the following materials:
- (i) Kiln fired or concrete brick;
- (ii) Stucco textured finish;

- (iii) Stone;
  - (iv) Timber weather boards;
  - (v) Linea weather boards;
  - (vi) Metal laminate on timber;
  - (vii) Any other exterior cladding material for which the Grantor [the Purchaser] has obtained the Developer's written consent.
- (d) Not use metal clad roofing that has not been pre-painted.

*Restrictions on certain improvements*

- (e) Without limiting any other covenant, not permit a building to be erected on the Land other than:
- (i) a new dwelling (with a fully integrated garage);
  - (ii) a relocatable dwelling (with a fully integrated garage, and Building Act code of compliance), if it has only previously been a show home and has not been previously lived in;
  - (iii) a building normally appurtenant to a residential dwelling, provided that any walls of the building visible from the road frontage of the Land are of the same material as the walls of the dwelling.
- (f) Not erect or permit to be erected or placed on the Land any carport unless attached and fully integrated into the roofline of the dwelling or garage and screened from view from the road by fencing or landscaping approved by the Developer.
- (g) Not erect or permit to be erected a multi-storey dwelling house on the Land, unless the Grantor's [Purchaser's] Land is any of Lots 203, 213, 216, 217, or 229 on Deposited Plan **[DP NUMBER FOR MARKETING STAGE 5 OR RELEVANT SUBSTAGE]**.

*Design approval*

- (h) Not do any work or permit any work for the erection of buildings, accessory buildings, fences, driveways, or other improvements (and this shall also include exterior finishes and excavation of foundations upon the Land) unless plans and specifications and all other details of construction, finish and location as the Developer at the Developer's absolute discretion may require, have first been submitted to the Developer and have received the Developer's written approval.

*Additional approval requirements for relocatable dwellings*

- (i) Not erect a relocatable dwelling without first (in addition to complying with all other clauses of this instrument):
- (i) Submitting to the Developer a landscaping plan for the Land (showing the proposed fencing, driveway, paths and grassing) and obtaining the Developer's written approval of the landscaping plan; and
  - (ii) Paying a bond of \$10,000 to the Developer's solicitor, to be held until the Grantor [Purchaser] has complied with all aspects of the approved landscaping plan and supplied a copy of the Building Act code of compliance for the erection of the relocatable dwelling onto the Land.

*Restriction on subdivision*

- (j) For Land in a title containing greater than 400m<sup>2</sup>, not Subdivide the Land nor amalgamate the title to the Land with another title.

*Fencing and fencing contributions*

- (k) Without prejudice to clause 3(h), and excluding the fence atop the noise attenuation bund (refer to clause 3(ac) below), not erect or permit to be erected on the Land a fence:
- (i) Which is made out of corrugated iron or post and wire; or
  - (ii) Which does not comply with Selwyn District Council requirements (in the District Plan or under a consent notice on the title for the Land), unless authorised by a resource consent; or
  - (iii) Which, if it is a fence between the Land and an adjoining reserve, is less than 50% transparent or more than 1.2 metres in height above the natural ground level; or
  - (iv) Which is higher than 1.8 metres above natural ground level, at any point; or
  - (v) Which is higher than 1.2 metres above natural ground level, at any point within 2 metres of any legal road (except for corner sections, to the extent clause 3(k)(vi) applies); or
  - (vi) Which, if it is a fence on a corner section, is within two metres of a road boundary, and:
    - (A) Exceeds in continuous length above 1.2 metres in height for either 15 metres or 50% of the length of the relevant road boundary (whichever is shorter); or
    - (B) Is within 2 metres of a shared side boundary between the Grantor's [Purchaser's] Land and other [Neighbours'] Land; or
    - (C) Is made of materials which (in the Developer's opinion) are not harmonious with the materials used in the dwelling on the Grantor's [Purchaser's] Land.
- (l) Not call upon any owner of Relevant Neighbouring Land to pay for or contribute towards the cost of erection or maintenance of any residential style boundary fence between the Grantor's [Purchaser's] Land and the adjoining Relevant Neighbouring Land. In this paragraph, "**Relevant Neighbouring Land**" means land which is both:
- (i) 5,000m<sup>2</sup> or greater in area; and
  - (ii) Not a Servient tenement or Dominant tenement under Schedule A of this instrument [Purchaser's title and Neighbours' titles].
- (m) Not call upon Selwyn District Council to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the Land and any adjoining reserve or other land owned by Selwyn District Council.
- (n) Not call upon the Developer to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the Land and any adjoining Land owned by the Developer, provided that this covenant will not endure for the benefit of any subsequent registered proprietor of any such adjoining Land. This clause 3(n) overrides clause 3(o).
- (o) Pay 50% of the reasonable cost of a Qualifying Fence to any neighbour that erected the Qualifying Fence, if that neighbour has not previously received a contribution towards the cost of the Qualifying Fence in accordance with this clause 3(o). A "**Qualifying Fence**" means a fence on a shared boundary between the Grantor's [Purchaser's] Land and adjoining Land owned by the neighbour. However this

clause does not benefit the Developer or need to be complied with by the Developer.

*Building timeframes and crossings*

- (p) Ensure that:
- (i) any building is completed within nine months of laying down the foundations for such building and no building once under construction shall be left without substantial work being carried out for a period exceeding three months;
  - (ii) entry and exit to and from the Land during building is via a single entry/exit point on the Land boundary, of a maximum 4 metre width, which must be notified to and approved by the Developer as part of the approval required under clause 3(h);
  - (iii) any other requirements for the construction phase which form part of the Developer's approval under clause 3(h) are complied with by the Grantor [Purchaser];
  - (iv) any driveway on the Land is formed, within six months of completion of the dwelling, to comply with the requirements of Appendix 13 of the Selwyn District Council Partially Operative District Plan (Townships Volume), including sealing the driveway if it serves three or more lots; and
  - (v) where a driveway is created on the Land, a curb crossing is also completed at the cost of the Grantor [the Purchaser] and to the standards required by the Selwyn District Council, within six months of the completion of the driveway. To avoid doubt, the Grantor [the Purchaser] is not entitled to any part of any bond which may be paid by the Developer to Selwyn District Council in order to secure the completion of the curb crossings on the Land.
- (q) If Selwyn District Council notifies that it requires the curb crossing on the Grantor's [Purchaser's] Land to be completed without further delay, then (if the Developer so elects) the Grantor [the Purchaser] must:
- (i) Allow the Developer to construct the curb crossing on the Grantor's [Purchaser's] Land in a position the Developer considers to be appropriate (after consultation with the Grantor [the Purchaser]); and
  - (ii) Reimburse the Developer for all of the Developer's costs of and incidental to the construction of the curb crossing.

This clause 3(q) applies whether or not the Grantor [the Purchaser] is in breach of the covenant in clause 3(p)(v).

*Tidy appearance*

- (r) Not permit a temporary building or structure to be erected on the Land except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Land upon completion of the work.
- (s) Keep the Land in a neat and tidy condition and shall not permit excessive growth of grass (beyond 20cm in length).
- (t) Maintain all road reserves adjoining the Land in a neat and tidy condition and immediately repair (to the satisfaction of the Developer) any damage to the footpath and berms adjoining the Land caused by the Grantor [the Purchaser] or its contractors, employees, agents and invitees.

- (u) Not cut, trim, damage, remove or relocate any tree, shrub or plant on the road reserve without the prior approval of the Developer and the Selwyn District Council.

*Monitoring*

- (v) Not prevent the Developer, its officers, employees or agents from entering onto the Land at all reasonable times for the purposes of ensuring compliance with the foregoing covenants and remedying any breaches thereof subject to the Developer first giving at least 48 hours' prior written notice of its intention to enter on to the Land. If the Developer enters on to the Land it shall not be responsible for any damage occasioned to the Land or anything placed thereon as a result of a reasonable exercise by the Developer of its powers.

*Aerials etc*

- (w) Not install or attach any accessory (including but not limited to satellite dishes, television aerials, and solar panels) on the Land, unless they are constructed in such a way as to be discreetly integrated with the design of buildings on the Land so that they are not highly visible from any road, thoroughfare or any other Land.

*No interference with development of Stonebrook subdivision or Lot 515 Local Centre*

- (x) Not at any time oppose, obstruct or object in any way, or provide support in any form to any person in opposition to, any planning proposal by the Developer in respect of the Stonebrook subdivision and sale of any land owned by the Developer within that subdivision;
- (y) If required, on request by the Developer, provide affected party approval to any planning application referred to in clause 3(x) in accordance with the provisions of section 95D(e) Resource Management Act 1991;
- (z) Clauses 3(x) and 3(y) will also apply (with all necessary modifications) to the development, subdivision and sale of Lot 515 on Deposited Plan **[DP NUMBER FOR RELEVANT SUBSTAGE IN MARKETING STAGE 4 THAT LOT 515 TITLE ISSUES UNDER]** by the Developer or its successors in title.

*Nuisance*

- (aa) Not allow any animal to be kept on or about the Land which is likely to cause a nuisance or annoyance to occupiers of other Land, and in particular without otherwise limiting this restriction, not to keep on or about the Land any dog which in whole or part appears to be a Pit Bull Terrier, Rottweiler or Doberman Pinscher.
- (ab) Not use the Land in any way which in the reasonable opinion of the Developer detrimentally affects the amenities of the neighbourhood including permitting noise to escape from the Land which is likely to cause offense or a nuisance to occupiers of other Land.

*Noise Attenuation – Lots 187 to 203*

- (ac) Where Land owned by the Grantor is within Lots 187 to 203 (inclusive) on DP **[DP NUMBER FOR MARKETING STAGE 5 OR RELEVANT SUBSTAGE]**, maintain any noise attenuation bund and/or solid acoustic fence (including but not limited to any wall, fence or earth bund) and/or landscaping on the noise attenuation bund which is situated on the Land in a neat and tidy condition and immediately repair (to the satisfaction of the Developer) any damage and wear and tear to such noise attenuation bund and/or solid acoustic fence so that it remains:
  - (i) solid and airtight with no gaps, cracks or spaces through or beneath the structure; and

- (ii) compliant with all other requirements of the subdivision consent under which the title for the Land was issued.

### **Enforcement**

- 4 The Developer shall not be required or obligated to enforce all or any of the foregoing covenants, stipulations and restrictions, nor will the Developer be liable to any other party for any breach thereof by any Grantor [Purchaser].
- 5 If there should be any breach or non-observance of any of the foregoing covenants then without prejudice to any other liability which the Grantor [the Purchaser] may have to any Grantee [Neighbour], the Grantor [the Purchaser] will upon written demand being made by any Grantee [Neighbour]:
  - (a) Pay to any Grantee [Neighbour] making such demand as liquidated damages the sum of \$250.00 (Two Hundred and Fifty Dollars) per day for every day that such breach or non-observance continues after the date upon which written demand has been made, provided that if more than one person is making such demand then that sum shall be shared between those persons; and
  - (b) If applicable, remove or cause to be removed from the Grantor's [Purchaser's] Land any second hand or used dwelling, garage, carport, building or other structure erected or placed on the Grantor's [Purchaser's] Land in breach or non-observance of the foregoing covenants; and
  - (c) If applicable, replace any building materials used or permitted to be used in breach or non-observance of the foregoing covenants.
- 6 The Grantor [the Purchaser] covenants that the Grantor [the Purchaser] will at all times indemnify the Grantee [Neighbours] from all proceedings, costs, claims and demands in respect of breaches by the Grantor [the Purchaser] of any of the stipulations, restrictions and covenants in this instrument.

### **General**

- 7 Any requirement in this instrument to submit plans and specifications to the Developer, or to obtain the Developer's approval, will cease to apply 7 years after the date of this instrument (but without prejudice to the liability of any party for any breaches which have already occurred).
- 8 Without prejudice to clause 7, the covenants in this instrument will immediately cease to apply to any Land (or part thereof) which is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.
- 9 Subject to clause 3(l) and 3(m), but despite any other provision of this instrument, if the written consent of the Developer is obtained to any action or omission, that action or omission will be deemed to not constitute a breach of any covenant within this instrument.