

**MCQUARRIE PROJECTS LIMITED
LAND COVENANTS
4 DUNCAN ROAD, HAMILTON**

Background

The intention of these land covenants is to establish and maintain an attractive, high quality, well-designed and integrated residential development.

Interpretation

1. In these land covenants, the following terms have the corresponding meanings provided below:
 - a. **'Developer'** means McQuarrie Projects Limited and/or nominee
 - b. **'House'** or **'Houses'** means any residential building or house, or part of a residential building or house, which is intended to be used as a separate residence.
 - c. **'Owner'** means any registered proprietor of any Lot referred to as the Burdened Land in Schedule A.
 - d. **'Property'** or **'Properties'** means any Lot referred to as the Burdened Land in Schedule A.
 - e. **'Amenity'** or **'Amenities'** means any house, building, structure or thing.

House

2. If the Owner wishes to paint or otherwise alter the exterior of the House to a different colour, style or shape to which it was originally constructed and painted, it must first obtain the written approval of the Developer.
 - a. In the event the Developer's written approval cannot be obtained because of clause 6, an Owner may obtain written approval from the Owner(s) of the Benefited Land adjoining the Owner's Property in substitution for the Developer's approval.

Landscaping

3. An Owner must keep the Property in a neat and tidy condition, including by ensuring that:
 - a. Grass is maintained so that it does not exceed a height of 100mm;
 - b. Rubbish does not accumulate on the Property; and
 - c. The Property does not otherwise look untidy.

Maintenance

4. An Owner must not alter the external appearance of any Amenities or bring onto the Property anything that alters the external appearance of the Property without first obtaining the written approval of the Developer. In the event the Developer's written approval cannot be obtained because of clause 6, an Owner may obtain written approval from the Owner(s) of the Benefited Land adjoining the Owner's Property in substitution for the Developer's approval.
5. An Owner must maintain the exterior appearance of any Amenities to a high standard so that the appearance of the Amenities is consistent with the Amenities within the other Properties.

Developer's approval

6. The role of the Developer to give approvals under these land covenants will terminate on the Developer providing notice it no longer provides approvals and from that date the right to enforce or waive the rights and benefits so conferred will, in accordance with normal legal principals, vest in the registered proprietors of the Benefited Land.
7. The Developer may assign or delegate its rights, powers and discretions set out in these land covenants.
8. Any approval required from the Developer under these land covenants means written approval.
9. The Developer's right to grant or decline any request for approval under the land covenants is an unfettered right and does not allow any person to challenge for any reason the giving or the declining of any such approval. For the avoidance of doubt, no person will have any claim against the Developer in respect of any decision that the Developer or their assignee or delegate makes in respect of any approval sought.
10. The Developer is under no liability whatsoever to enforce these land covenants.

Breach

11. Acknowledging that the value of the Benefited Land may be affected by the standard of House erected on the Property and by failure to comply with these land covenants, the Owner covenants for the Owner personally and their executors, administrators and assigns that should the Owner fail to comply with, observe, perform, or complete any of the land covenants contained in clauses 1 to 9, and without prejudice to any other liability the Owner may have to the Developer or any other person, the Owner will:
 - a. immediately upon receipt of a written demand for payment from the Developer or the Developer's solicitors pay to the Developer as liquidated damages the sum of ONE THOUSAND DOLLARS (\$1,000.00) per day for each day the default continues unremedied, such liquidated damages to be limited to a maximum value of \$150,000.00;
 - b. shall immediately undertake such remedial action as may be required by the Developer including but not limited to permanently removing or causing to be permanently removed from the Property any building or other structure so erected or repaired or other cause of any breach or non-observance of these land covenants;
 - c. pay on demand the Developer's costs incurred in respect of the default and any enforcement or attempted enforcement of the Developer's rights such costs to include but not be limited to legal costs on a solicitor client basis; and
 - d. Pay interest at the rate of 15% on any money which may be demanded and not paid, such interest to accrue from the date of the demand until the date it is finally received by the Developer;

provided that:

- i. Except for those defaults notified to the Owner when it is a registered proprietor, the Owner shall only be liable while the Owner is a registered proprietor of the Property; and
- ii. If a default is completely and finally remedied within one month of notice in writing requiring the removal or remedy of such cause of default and the payment by the

defaulting party of all reasonable legal costs and other expenses incurred by the party enforcing the said covenants the sum payable under clause 11(a) shall abate to \$1.00 per day provided that this abatement shall not apply in respect of any subsequent default of a similar nature.

Dispute Resolution

12. If a dispute in relation to any of these land covenants arises, the following process must be followed:
 - a. The party initiating the dispute must provide full written particulars of the dispute to any other party/(ies);
 - b. The parties must promptly meet in good faith to try and resolve the dispute;
 - c. If the dispute is not resolved within 14 working days of the written particulars being given to the party/(ies), the dispute must be referred to arbitration, in accordance with the Arbitration Act 1996 (or any subsequent Act);
 - d. The arbitration must be conducted by a single arbitrator to be agreed between the parties, or failing agreement, by the President of the New Zealand Law Society; and
 - e. The decision made by the arbitrator is binding on both parties.