

## **SCHEDULE 3 - EXPECTED CONTENT OF LAND COVENANTS**

### **LAND COVENANT NUMBER 1 TO BE REGISTERED AGAINST ALL LOTS EXCEPT LOTS 100-104**

#### **Definitions and Interpretation**

For the purposes of this land covenant:

<b>“Covenantee”</b>	means the registered Owner of the Benefited Land in Schedule A
<b>“Covenantor”</b>	means the registered owner of the Burdened Land in Schedule A
<b>“Developer”</b>	TMB Developments Limited or such person as it may appoint in writing
<b>“Development”</b>	means the Developer’s Stoney Hill development at 422 Three Mile Bush Road, Kamo

#### **RESTRICTIVE COVENANTS**

The Covenantor has agreed to create land covenants in favour of the Covenantee to regulate the future buildings, amenities, plantings and use of the lots within the Development to create an architecturally appealing development and preserve as much as possible the ambience of the special landscape of the land in the Development and surrounding area, where stone walls and native forest areas are the predominant features. To this effect, the Covenantor covenants and agrees with the intention to bind itself and future owners of the Burdened Land for the benefit of the Covenantee and future owners of the Benefited Land that the following covenants shall be forever appurtenant to the Benefited Land:

##### **1. Buildings and fences to be approved by the Developer**

###### **1.1 The Covenantor shall not:**

- (a) commence construction of any dwelling or building on the property, any accessory building or fence without first submitting and obtaining the written approval of the Developer to the plans of such dwelling, building or fence (which are intended to be submitted for building consent). Such plans shall include full details of the materials, finish and exterior colour schemes to be used. Any variation to or derivation from the approved plans not approved by the Developer will be a breach of this clause. As a guide to construction and design the Developer will provide Design Guidelines.
- (b) remove any of the plantings or fences established on the property by the Developer.

###### **1.2 The covenants in the above clause 1 shall expire on the date being 10 years from the date of initial registration of these land covenants on the original owners Record of Title, but expiry will not affect the right of any parties which have arisen before that date.**

#### **OTHER LAND COVENANTS**

Unless otherwise authorised in writing by the Developer or all Covenantees, the Covenantor shall:

## **2. Buildings, vehicle crossings, tanks and aerials**

- 2.1 Not permit any building to remain incomplete any later than 12 months after laying down of foundations of such building. During construction container bins must be kept on the property and kept neat and tidy and all rubbish must be kept contained in the bins.
- 2.2 Not permit the property to be used as a residence until a dwelling house has been constructed on it which has been granted a final code compliance certificate.
- 2.3 Ensure that the vehicle crossing and the driveway serving the land is completed within 4 months from completion of the dwelling and sealed and finished using exposed aggregate tinted concrete with a minimum of 5kgs of black oxide per 1m<sup>3</sup> added at the time of mixing
- 2.4 Bury all water storage tanks completely.
- 2.5 Not require the Developer to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between the Property and any adjoining property owned by the Developer but the benefit of this fencing covenant shall not benefit any subsequent purchaser of such adjoining lot.
- 2.6 Not 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 one metre; and
  - (b) Are situated at least four metres from the front façade of the dwelling; and
  - (c) Are mounted below the ridgeline of the roof.

## **3. Plantings and landscaping**

- 3.1 Not plant any exotic conifers or exotic palms which will grow to a height greater than 3 metres.
- 3.2 Not permit or allow row plantings such as hedges to exceed a height of 1.8 metres.
- 3.3 Not allow any trees, plants or shrubs on the land (with the exception of existing native vegetation) to exceed a height of 3.5 metres except for 1 specimen tree every 250m<sup>2</sup> on the property.
- 3.4 Not cut down, remove or kill (either by ringbarking or poisoning) any mature trees on the Property.
- 3.5 Not permit hedges intersecting a stone wall to exceed the height of the stone wall.
- 3.6 Not plant or permit to grow on the Property any exotic plant species known to be invasive.
- 3.7 Maintain hedges on boundaries shared with Lots 100-104, being the lots making up the farmlet ("the Farmlet") on both sides of the boundary line.
- 3.8 On Lots 16, 18 & 19, any hedges or fences within 10 metres of the stone wall located on the northern boundary of the property must be kept below 1.2 metres.
- 3.9 On Lots 8 – 18 being the properties that adjoin a right of way access road, no fence or plantings shall be erected or established within 1.5 metres of the road or curbside.
- 3.10 Not plant or permit to grow any trees or vegetation close to any existing stonewall which has the potential to damage or compromise the structural integrity of any stonewall.

- 3.11 Ensure that all clotheslines, garden sheds or utility sheds and raised garden beds are positioned away from the road access and obscured from sight of the road. Metal garden sheds are not permitted unless they are painted in recessive colours.
- 3.12 Ensure all landscaping is to be completed to a standard expected of a professional landscaper.
- 3.13 Not permit or cause the removal of soil from the land except as shall be necessary for the construction of buildings or swimming pools.

#### **4. Use of the land**

- 4.1 Not allow the Property to be used or occupied other than as a residence.
- 4.2 Not permit the Property to be used for any trading or commercial purposes.
- 4.3 Not permit any caravan or motorhome to be placed on the land that is not roadworthy or to be used for residential use for a period exceeding two months in any twelve month period.
- 4.4 Not allow on the land for more than two months any unfinished boat or vehicle under repair or anything else of similar nature that is not covered and inside a permanent building.
- 4.5 Keep the Property in a neat and tidy condition and in particular, keep lawns mown and prevent long grass and weeds growing on the land. If the Covenantor fails to keep the Burdened Land in a neat and tidy condition then, in order to maintain the overall appearance of the Development during the sales process, the Developer may mow the land on behalf of the Covenantor in order to preserve the overall appearance of the subdivision. The cost of doing so shall be paid by the Covenantor at a rate of \$120.00 plus GST per mow of the land. The Developer shall not be responsible for any damage to any structure or objects, or deterioration occasioned to the land as a result of the reasonable exercise by the Developer of its powers under this clause. The Covenantor grants the Developer a licence to enter the land for the purposes of this clause. The right of the Developer to mow the land under this clause will continue to have effect until the Covenantor commences construction of a house on the land. During construction the Covenantor will continue to keep the Burdened Land in a neat and tidy condition as far as practicable.
- 4.6 Not permit or suffer any rubbish, noxious substances, livestock, or any domestic birds or animals likely to cause nuisance or annoyance to any neighbour, to be placed on or accumulate on the land. Any owner who has a dog must take all necessary steps to ensure that their dogs are contained within the boundaries of their property when not on a leash.
- 4.7 Keep the roadside berms, drains, vehicle crossings, access culverts and plantings outside but adjacent to the Property mown, clear of rubbish, noxious weeds and rank grass and in a tidy operable condition.
- 4.8 Promptly make good any damage caused to roads, footpaths, berms, services or common areas by any owner or their contractors or agents during the course of construction.
- 4.9 Not lodge or make any objection or complaint in relation to any farming activities that will take place on the Farmlet being Lots 100-104 including but not limited to dust, smells and spray drift associated with farming operations and practices on these lots.

#### **5. Penalties for non-observance and enforcement**

- 5.1 If there is a breach or non-observation by the Covenantor of any of these covenants, then without prejudice to any other liability the Covenantor may have to the Covenantee and the Developer, or any other person or persons having the benefit of the stipulations and

restrictions, the Covenantor will, upon written demand made by the Covenantee or the Developer:

- (a) Immediately take all steps necessary to remedy the breach or non-observance as required by the Developer or Covenantee including but not limited to permanently removing from the land any improvement, structure, object, animal or plant or other cause of any breach or non-observance of the covenants;
- (b) Immediately upon receipt of a written demand for payment pay to the Developer or Covenantee or person making such demand as liquidated damages the sum of \$500.00 per day for every day or part day that such breach or non-observance continues from and after the date upon which written demand is made; and
- (c) Pay on demand the Developer or Covenantee's costs incurred in respect of the default and any enforcement or attempted enforcement of the Developer or the Covenantee's rights, such costs to include but not be limited to legal costs on a solicitor client basis;
- (d) Pay interest at the rate of 15% per annum 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 or Covenantee.

5.2 The covenants in this instrument will immediately cease to apply to any land which is part of the Development (or part thereof) which is intended to vest or subsequently vests 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 LINZ. Notwithstanding this clause, should LINZ require a partial surrender of this covenant to be registered on any land to vest in the Crown or any territorial authority as a road or reserve, then the Covenantor and Covenantee duly appoint the Developer as their attorney to execute on their behalf any documentation necessary to give effect to the required surrender of these covenants on the land to vest in the Crown or any territorial authority as a road or reserve.

5.3 Five years after the Developer has sold all lots in the Development (excluding the Farmlet lots being Lots 100-104), the right of the Developer to approve any dispensation of the covenants from clause 3 onwards is passed jointly to the neighbouring lot owners including lot owners on the opposite side of the road.

**LAND COVENANT NUMBER 2 TO BE REGISTERED AGAINST ALL LOTS EXCEPT LOTS 100-104  
PROTECTING THE DEVELOPMENT AND FARMING RIGHTS OF THE SURROUNDING FARMLAND**

The registered owner of the Burdened Land from time to time ("the Covenantor") shall not:

1. Make any complaint or objections, or finance, support or assist any complaint or objection or submission against any application by the registered owner of the Benefited Land ("the Covenantee") in respect of the Benefited Land, including but not limited to any resource consent or plan change relating to a subdivision, boundary adjustment and/or development of the Benefited Land.
2. The Covenantor will, upon request by the Covenantee, provide written consent to any application by the Covenantee for a Resource Consent or plan change in respect of a subdivision or plan changes in respect of a subdivision, boundary adjustment and/or development of the Benefited Land. The Covenantee shall be entitled to provide a copy of this Instrument to the relevant authority as evidence that such approval or support is given.
3. Object to or make complaints in respect of any farming activities being run on the Benefited Land including but not limited to dust, smells and spray drift associated with farming operations and practices.
4. The Covenantor will indemnify the Covenantee against all expenses, losses, claims and proceedings arising out of a breach by the Covenantor of any of its obligations set out in this covenant.

## **SCHEDULE 4 – Consent Notice**

### **EXPECTED CONTENT OF CONSENT NOTICE PURSUANT TO WHANGAREI DISTRICT COUNCIL'S RESOURCE CONSENT DATED 21 MARCH 2019**

**IN THE MATTER** of the Resource Management Act 1991  
("the Act")

**AND**

**IN THE MATTER** of a subdivision consent as evidenced by  
Land Transfer Plan No. \_\_\_\_\_

**AND**

**IN THE MATTER** of a Consent Notice issued pursuant to  
Section 221 of the Act by WHANGAREI  
DISTRICT COUNCIL ("the Council")

IT IS HEREBY CERTIFIED that the following condition to be complied with on a continuing basis by the subdividing owner and subsequent owners was imposed by the Council as a condition of approval for the subdivision as effected by Land Transfer Plan No. \_\_\_\_\_ ("the Plan"):

#### In relation to Lot 1 on the Plan:

- i. The communal storm water treatment and attenuation reservoir must be monitored and maintained in accordance with the recommendations identified in the Base Group Consulting Chartered Professional Engineers engineering suitability report reference 18009 dated 19/02/2018 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- ii. Upon construction of any habitable dwelling, sufficient water supply for fire-fighting purposes is to be provided by way of tank storage or other approved means, and that this water supply be accessible by fire-fighting appliances in accordance with Council's Environmental Engineering Standards 2010 and more particularly with the 'NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008'. Demonstration of achievement of an alternative means of compliance with this standard will be considered to satisfy this requirement but note that written approval from the NZ Fire Service is required.

#### In relation to Lots 1-27 on the Plan:

- iii. Any development shall comply with the restrictions and recommendations (specific foundations design, wastewater treatment and disposal, storm water treatment, attenuation and disposal) identified in the Base Group Consulting Chartered Professional Engineers engineering suitability report reference 18009, dated 19/02/2018 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- iv. On proposed Lots 14, 15, 19, 20, 25 & 26 a waste water treatment system capable of treating the domestic wastewater generated by the dwelling to a secondary standard certified by a Geo-Specialist with regard to stability, shall be installed and the treated waste

water shall be discharged to land by way of pressure compensating dripper irrigation unless an alternative system certified by a Geo-Specialist with regard to stability is approved by Council's Development Engineer or delegated representative in writing. A detailed design report shall be prepared at building consent stage by a suitably qualified and experienced person that shall supervise the construction and commissioning of the system.

- v. At the time of the building consent the owners of Lots 1–9, 10–13, 16–18, 21 and 24–27 shall arrange to supply and install (at its own cost) and be responsible for ongoing maintenance and associated costs for a private sewage treatment system and pumping pipeline connecting into the dedicated communal waste water disposal area.
- vi. The owners of Lots 1–9 shall be aware that the communal waste water disposal land application area is located within the area 'L' on proposed Lot 101 and must be maintained as recommended in the Base Group Consulting Chartered Professional Engineers engineering suitability report reference 18009 dated 19/02/2018 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- vii. The owners of Lots 10–13 shall be aware that the communal waste water disposal land application area is located within the area 'T' (and reserve are 'L') on proposed Lot 101 and must be maintained as recommended in the Base Group Consulting Chartered Professional Engineers engineering suitability report reference 18009 dated 19/02/2018 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- viii. The owners of Lots 16–18 shall be aware that the communal waste water disposal land application area is located within the area 'J' on proposed Lot 100 and must be maintained as recommended in the Base Group Consulting Chartered Professional Engineers engineering suitability report reference 18009 dated 19/02/2018 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- ix. The owners of Lots 21–24 and 27 shall be aware that the communal waste water disposal land application area is located within the area 'K' on proposed Lot 102 (and reserve are 'L' on proposed Lot 101) must be maintained as recommended in the Base Group Consulting Chartered Professional Engineers engineering suitability report reference 18009 dated 19/02/2018 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- x. The owners of Lots 2–5 and 23–27 shall be aware that the common water tank constructed as part of subdivision works within the easement 'X' on proposed Lot 102 is for the purposes of fire-fighting water supply and must be maintained full with a minimum water volume of 25m<sup>3</sup> in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.
- xi. The owners of Lots 6–15, 21 & 22 shall be aware that the common water tank constructed as part of subdivision works within the easement 'Y' on proposed Lot 101 is for the purposes of fire-fighting water supply and must be maintained full with a minimum water volume of 25m<sup>3</sup> in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.
- xii. The owners of Lots 18–20 shall be aware that the common water tank constructed as part of subdivision works within the easement 'Z' on proposed Lot 100 is for the purposes of fire-fighting water supply and must be maintained full with a minimum water volume of 25m<sup>3</sup> in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

- xiii. The owners of proposed lots shall be responsible to ensure that any further development of the site including building sites, earthworks, drainage works, effluent disposal fields & vehicle access formations will be undertaken in such a manner that will not result in the obstruction or diversion of any existing overland flow path unless a specific design has been done by an IQP or Chartered Professional Engineer which mitigates potential adverse flooding effects on any neighbouring properties created by the obstruction or diversion and is approved in writing by the Council's Development Engineer or delegated representative.  
  
Note Overland flow paths are to be assessed in accordance with Section 4.9 of Council's Environmental Engineering Standards 2010 Edition and are to be certified by an IQP/CPEng.
- xiv. The minimum setback from the road boundary for any building shall be 10m (Lots 2-5, 7-8, 16, & 21-24).
- xv. Road boundary treatment on Lots 2-5, 7-8, 16, and 21-24 shall be restricted to a maximum of 900mm and should not be of an urban form and not solid. Post and rail fencing would be appropriate. Hedging to a similar maintained height of 900mm would also be appropriate as an alternative.
- xvi. Mustelids, rodents and any other domestic animal, apart from cats and dogs, shall not be kept on any lot.
- xvii. Two dogs to be de-sexed and registered shall be allowed to be kept on each lot.
- xviii. Two cats which must be de-sexed and fitted with collars to avoid confusion with feral cats shall be allowed to be kept on each lot.
- xix. Any dog residing within the lots shall be kept under the following conditions, to the satisfaction of the Whangarei District Council Team Leader RMA Approvals and Compliance or their delegated representative:
  - a. Shall have completed Kiwi aversion training before being introduced to the lots.
  - b. Shall be prevented from roaming at by securing them inside a building, or if retained outside shall be secured with an escape proof enclosure/ area.
  - c. Working dogs should be kept in an escape proof enclosure / area when not working.
- xx. No building may be erected within the 'no build areas' zone identified on the survey plans.
- xxi. There shall be no more than one residential unit per lot.
- xxii. Except for the existing buildings located within the application site, building facade materials and finishes shall have a reflectance value of no more than 40%. Smaller architectural elements, such as joinery or other minor features, are excluded from this requirement. Windows shall not be mirror type glazing.
- xxiii. Except for the existing buildings located within the application site, roof surfaces shall have a reflectance value of no more than 30%.
- xxiv. Building heights shall be limited to 6.0m maximum in line with District Plan height meaning of words.
- xxv. The maintenance of the swale drain and vehicle crossing within the road reserve (directly adjacent to each lot) shall remain the responsibility of the property owner. These structures shall be maintained in a state consistent with the relevant construction engineering drawings required and approved for this consent. Any modification to these swales or to vehicle crossings shall not be undertaken without the approval of Council's Roading



Manager. The constructions of any additional crossings require the approval of Council's Roading Manager.

- xxvi. Stone walls which may be present on the respective lots are not to be removed and shall be maintained to a good standard by the owner to the satisfaction of the Team Leader RMA Approvals and
- xxvii. Any fence or barrier shall be maintained to a good standard by the owner to the satisfaction of the Team Leader RMA Approvals and

