

APPENDIX 4

COVENANTS

Lots 65 to 100 inclusive



Annexure B – FRONTIER ESTATE LAND COVENANTS

1. Land Covenants ("Covenants")

The Covenantor and the Covenantee wish to protect the visual concept and integrated appearance of the Frontier Estate Subdivision as a whole.

To achieve this, the Covenantor hereby covenants with the Covenantee, as registered proprietors, as set out below and hereby requests that such covenants be noted against all the titles having the benefit and those having the burden of these Covenants.

- 1.1. The developer reserves the right at any time to waive or vary any of these covenants and if called upon to do so the Grantor will sign any documentation required to give effect to this waiver and/or variation.
- 1.2. These Covenants shall:
 - (a) run with each residential Lot in the relevant Stage of the Frontier Estate Subdivision, (subject to the right of Frontier Developments Limited to include further Lots in, or exclude Lots from, the Covenants, as it sees fit in its discretion); and
 - (b) be for the benefit of and appurtenant to each residential Lot in the relevant Stage of the Frontier Estate Subdivision, (subject to the right of Frontier Developments Limited to include further Lots in, or exclude Lots from, the Covenants, as it sees fit in its discretion); and
 - (c) all expire on **1 January 2040** and be void for all purposes including antecedent breach.

Provided that and notwithstanding the foregoing, these Covenants shall cease to have any effect on any allotments which shall vest or be dedicated as road or reserves in any subsequent stages of the Subdivision. Such date of cessation shall be the date of approval of the subdivision plan by the territorial authority for the relevant stage.

2. Interpretation

- 2.1. For the purposes of these Covenants:
 - (a) **"Allow"** includes do, facilitating, permitting and suffering.
 - (b) **"Approval" or "Approved"** means an approval or consent obtained in accordance with clause 3 of these Covenants.
 - (c) **"Building"** includes all structures and construction, including (but not limited to) dwellings, residences, flats, units, garages, glasshouses and sheds.
 - (d) **"Completion Certificate"** means a certificate issued by Frontier Estate confirming that all Buildings and Landscaping Features have been completed in accordance with the terms of these Covenants.
 - (e) **"Construct" and "Construction"** includes to install, erect, relocate, repair, renovate, replace or place on the Land, Lot or in any Building and also includes "Allow" to construct.
 - (f) **"Corner Lot"** means any Lot having at least two street fronting boundaries.

- (g) **"Frontier Estate"** means Frontier Developments Limited
- (h) **"Land"** and **"Lot"** means any lot having the burden and/or the benefit of these Covenants as described in clause 1 above.
- (i) **"Landscape Features"** includes all fences, walls, windbreaks, washing lines, letterboxes, satellite dishes, street and/or house numbering and the design of that lettering or numbering), kerbs, footpaths, road frontages, planting of trees, shrubs and plants, driveways, driveway crossings, entrance ways and concrete areas.
- (j) **"Local Authority"** means the Waipa District Council and/or Waikato Regional Council or any successor.
- (k) **"Primary Street Frontage"** means, in respect of a Corner Lot, the street facing boundary upon which the driveway has been or is to be constructed.
- (l) **"Secondary Street Frontage"** means, in respect of a Corner Lot, the street facing boundary upon which no driveway has been or is to be constructed.
- (m) **"Subdivision"** and **"Frontier Estate Subdivision"** means all of the residential Lots contained on Lot 1 DP516135, Lot 1 DP453448, Lot 3 DP487281 and Lot 1 DP500541 and on any other land title plan deposited at Land Information New Zealand by Frontier Developments Limited in respect of land located at 8 Frontier Road Te Awamutu and 5 Pirongia Road Te Awamutu, and shall include any subsequent stages in the Subdivision.
- (n) **"Lot #"** means Lot numbers as shown on the attached drawing titled **'OVERALL LAYOUT PLAN' drawing 30008-01-S0-C4**

2.2. The following provisions shall apply in the construction and interpretation of this instrument (unless the context otherwise requires):

- (a) the headings are for convenience only and shall not affect the interpretation of this instrument;
- (b) words importing the singular number include the plural and vice versa and the masculine gender includes the feminine and neuter genders and vice versa.

3. Approvals

3.1. All approvals or consents required by these Covenants shall be in writing from Frontier Estate (or its appointed agent) and shall be:

- (a) obtained by the Covenantor prior to any work being carried out on the Land; and
- (b) given or refused in the sole, absolute and unfettered discretion of Frontier Estate; and
- (c) subject to Frontier Estate reserving its right to approve requests for one party without creating any form of precedent for another party. Further, Frontier Estate may refuse an identical request from another party without having to give reasons.

3.2. When Frontier Estate exercises its discretion (as referred to in clause 3.1 above), it may also consider its own assessment of the effects on any land, building, the visual concept, or integrated appearance of all or any lots in the Subdivision.

- 3.3. Without limiting its discretion, Frontier Estate may refuse to approve some building or alteration plans or landscape designs and plants if such could, in its sole opinion, have a shade or other detrimental or negative affect on other Buildings or other land in the Subdivision, now or at a later date.
- 3.4. In considering any request from a Covenantor for a Completion Certificate in respect of a particular Lot, Frontier Estate will assess whether the Building and all Landscape Features have been constructed on that Lot in compliance with:
- (d) any plans previously approved by Frontier Estate;
 - (e) the terms of any other Approval given by Frontier Estate in relation to that Lot;
 - (f) the terms of this Covenant; and
 - (g) the terms of any guidelines issued by Frontier Estate from time to time.
- 3.5. At the date hereof the address for approvals from Frontier Estate (or its agent) is the Frontier Estate office c/- DMC located at;

155 Te Rapa Road Hamilton,
P.O. Box 5254, Hamilton 3242
(email: sales@frontierestate.co.nz).

4. Covenants

Prior approval of Building Plans

- 4.1. The Covenantor of any Lot as shown on attached drawing titled '**OVERALL LAYOUT PLAN' drawing 30008-01-S0-C4**, shall first obtain Building Plans Approval from Frontier Estate following a review by the Frontier Estate Design Review Committee, before applying to council for a building consent, and shall not commence construction of any Building, use any building plans, site plans, specifications (including all exterior colour schemes) which have not been approved by Frontier Estate prior to any site work or Building construction commencing.

The focus of the Frontier Estate Design Review Committee will be on design aspects associated with covenants, aesthetics, site access and sustainability all relative to orientation and position within Frontier Estate.

Prior approval of Landscape Plan

Pioneer Drive (Road 1), Gateway Drive (Road 4), Horizon Drive (Road 7) and Manaia Road (Road 10)

- 4.2. Without first receiving the Approval of Frontier Estate the Covenantor of any Lot adjacent to roads **Pioneer Drive (Road 1), Gateway Drive (Road 4), Horizon Drive (Road 7) and Manaia Road (Road 10)** as shown on attached drawing titled '**OVERALL LAYOUT PLAN' drawing 30008-01-S0-C4** shall not commence construction of any Landscape Feature, use any landscaping and/or planting plans, or fencing designs, which have not been Approved by Frontier Estate Design Review Committee prior to any construction of Landscape Features commencing.
- 4.3. Without limiting clause 4.2 above, Landscaping plans shall;
- (a) Be submitted to Frontier Estate for Approval not later than **three (3) months** following the submission of any Building plans under clause 4.1 above; and

- (b) Be prepared in a digital computer aided design format and include:
- i. enough detail to clearly identify plant quantities, locations, species and grade; and
 - ii. all hard scaping features including driveway and path specifications, fencing elevations (including stain colour); and
 - iii. stormwater collection and drainage of all items ii above; and
 - iv. all other landscaping features.

Design Review Costs

4.3. The Covenantor will pay the Covenantee the following costs for reviews of plans by Frontier Estate Design Review Committee as required by clause 4.1 and Clause 4.2;

- (a) First review \$0.00.
- (b) Second and subsequent reviews – all costs incurred by the Covenantee including the Frontier Estate Design Review Committee costs of \$250 per hour (incl. GST) per member involved in the review.

Building Covenants for All Lots

4.4. Without first receiving the Approval of Frontier Estate the Covenantor **shall not**:

- (a) Construct on the Land any relocated or Prefabricated Building.
- (b) Construct on the Land any Landscape Feature other than one constructed on site from new materials.
- (c) Construct any building with less than 75% of the non-glazed exterior wall cladding of the Building consisting of any of the following materials:
- Kiln fired or concrete brick, stucco textured finish, stone, weatherboards all having a maximum finished width not exceeding 180mm or any other new product of similar quality which must be approved before use by the Covenantee in writing.
 - Exterior finish in the form of flat cladding, poured concrete or similar with a textured surface and if concrete block a plastered finish, in such a manner as to fully cover the base material.
 - Exterior surfaces which are not factory prefinished shall be painted/stained prior to the building being occupied.
 - Where the dwelling house has more than a single level (excluding garage, carport, decks and split levels) the minimum of 75% of the non-glazed exterior cladding may be reduced to 60% provided the non-specified cladding is predominantly used in cladding the upper levels.
- (d) Exclude windows facing the road frontage.
- (e) Exclude a weather protected front door that is visible from the street entry.
- (f) Install exterior cladding exposed to weather without incorporating a vented cavity greater than 20mm between the exterior cladding and the supporting structure.

- (g) Construct any dwelling with:
- i. less than two hips or two gables in the roofline or
 - ii. to a shape other than a simple square or rectangle.
- Flat roofed dwellings may be acceptable if they comply with all covenants except covenant 4.4(g)(i), have more than one level of roofing **and** building plan approval is obtained from the Frontier Estate Design Review Committee.
- (h) Use as a roofing material on any Building any material other than:
- i. Tiles, (including clay, ceramic, concrete, Decramastic, pre-coated steel), or
 - ii. Colour steel (including pre-painted, long-run pressed or rolled steel), or
 - iii. Slate, or
 - iv. Membrane roofing, or
 - v. A roofing material approved by Frontier Estate.
- (i) Construct a building with less than either:
- i. 150% of the requirements of “H1/AS1 4th edition, amendment 4” or
 - ii. 100% of the requirements of “H1/AS1 5th edition”
- (j) Use internal and external lighting other than light emitting diode (LED) lights.
- (k) Install exterior lighting that does not minimise light spill to the night sky and other Lots.
- (l) Install windows or doors for a building that are not double glazed.
- (m) Take longer than 12 months to complete any building from laying down the foundations for such building and within 15 months of laying down the foundations to complete all ancillary work such as fencing, planting and landscaping and construct in proper and tradesman-like manner a driveway, or vehicle access in permanent continuous surfacing of concrete, concrete block, brick paving, or tar-sealing.
- (n) Once construction has been substantially completed, bring on to or allow to remain on the land or any internal road of the subdivision any temporary building, caravan, trade vehicle or other equipment or materials or machinery unless garaged or screened so as to preserve the amenities of the neighbourhood and to prevent noise likely to cause offence to residents in the subdivision.
- (o) Once construction has been substantially completed, regularly park recreational or commercial vehicles or trailers located on the street or footpath nor in front of the building line of the dwelling on the land.
- (p) Allow the Land to be used for any form of temporary residential purposes either by the construction of temporary Buildings or by the placement of caravans, huts and/or vehicles able to be used for human habitation.
- (q) Construct any building that does not meet all Local Authority consent conditions for Frontier Estate.
- (r) Construct any building that has an eaves width of less than 300mm.
- (s) Allow any road frontage hedging to be kept in place unless it is neat and tidy (and must ensure hedging is trimmed and maintained regularly).
- (t) Attribute any liability to Frontier Estate to pay for or contribute towards the cost of erection or maintenance of any fence or wall or retaining wall between any lot on the land and any adjoining Lot owned by Frontier Estate. This condition shall not enure for

the benefit of any subsequent purchaser of any adjoining land or any part of the adjoining land.

Retaining Walls

4.5.

- (a) It is acknowledged that any retaining walls between Lots are fully within the boundary of the Lot at the base of the retaining wall (“the lower lot”).
- (b) the owner of any lower lot:
 - (i) shall maintain the retaining wall to a structurally sound condition; and
 - (ii) must not lower the ground level at the base of the retaining wall.
- (c) The owner of any Lot above any retaining wall (“the upper lot”) must not:
 - (i) Construct foundations of any structure within a 1.5 meter setback from the top edge of any retaining wall that is supporting associated bearing soils of the structure.
 - (ii) Construct foundations of any structure closer than 2.5 meters from the top edge of any retaining wall that is supporting associated bearing soils of the structure, unless the supporting foundations located in the zone between 1.5 meter to 2.5 meters extend to **600mm** below the finished ground level at the top edge of the retaining wall.
 - (iii) Park any vehicle within 2 metres from the top edge of any retaining wall

4.6. The Covenantor shall meet the total cost of construction of any fence or wall to be constructed on the boundary of adjoining land if such land is owned by the Local Authority and will not seek contribution from Frontier Estate or the Local Authority for any such fence or wall.

Occupation as Dwelling

4.7. Without first receiving the Approval of Frontier Estate the Covenantor **shall not** allow any Building on the Land to be occupied as a dwelling in any way until, (with respect to all Buildings and Landscape Features on that same Lot):

- (a) Receipt of the Building Code Compliance Certificate(s) from either the Local Authority or an approved Building Certifier; and
- (b) the Buildings have been completed in accordance with all the terms of these Covenants (including the terms of any Approval granted by Frontier Estate) and in accordance with any guidelines issued by Frontier Estate from time to time; and
- (c) all exterior work and decoration, as approved, are completely installed; and
- (d) all driveways, paths, fences, and other Landscape Features are completed in accordance with these Covenants (including the painting, staining or finishing of all fences); and
- (e) all landscaping is to be completed within 12 months from the date of the Code Compliance Certificate issued by Waipa District Council in respect of the dwelling.
- (f) all unpaved areas viewable from the street are properly grassed and / or landscaped according to the Approved plans; and
- (g) The Covenantor has requested and received a Completion Certificate from Frontier Estate.

Site Development

- 4.8. Without first receiving the approval of Frontier Estate (or unless expressly permitted by these Covenants in respect of a particular Lot), the Covenantor **shall not**:
- (a) Construct or place or permit to be placed on the Land any Building (which is to be used as a dwelling) which has a floor area of less than 160 m² (including a garage under one roof).
 - (b) Construct on any Lot more than one Building to be used as a dwelling.
 - (c) Construct on any Lot a single garage unless a separate 15 m² car parking area is also provided within the Lot which area shall not impede or otherwise interfere with clear access to the said garage.

Street Frontage

Landscape Features and Fences

- 4.9. Without first receiving the Approval of Frontier Estate the Covenantor **shall not**:
- (a) Construct any fence parallel to the boundary of any Lot which is adjacent to a reserve unless such fence complies with the Frontier Estate subdivision conditions imposed by the Local Authority.
 - (b) Be entitled to modify or remove hedging or fences noted in clause 4.9(a) that have been constructed or planted at the date of adjoining section Title.
 - (c) Construct on the Land any contractor's temporary fence except for the express purpose during construction of a building and which shall be removed prior to issuance of the associated Building Code Compliance Certificate.
 - (d) Allow construction of footpaths, driveways, driveway crossings, entranceways and any concrete areas on land adjacent to roads **Pioneer Drive (Road 1), Gateway Drive (Road 4), Horizon Drive (Road 7) and Manaia Road (Road 10)** as shown on attached drawing titled '**OVERALL LAYOUT PLAN**' drawing **30008-01-S0-C4** unless associated plans and specifications have been approved by Frontier Estate and the driveway and footpath construction must be of one of the following:
 - i. plain concrete finish,
 - ii. exposed aggregate concrete,
 - iii. paving blocks or paving bricks,
 - iv. cemented stone or grouted tiles,
 - v. asphalt concrete with concrete or tiled kerb edging.
 - (e) Allow any Building or Landscape Feature (including the fences and plantings) to deteriorate whereby the standard of presentation is either:
 - i. less than that represented in the rest of the Subdivision, or
 - ii. unreasonable within a high-quality residential subdivision, taking into account fair wear and tear and the original condition at the time that the residential Building on the Land was occupied as a dwelling.
 - (f) Allow any advertisement, sign or hoarding of any kind to be erected on any part of the Land or any Building (except for compulsory statutory signage, real estate signage pending sale and builder's signage during construction and pending sale) without the

express approval of such signage (including its construction and location) by Frontier Estate prior to construction.

- (g) Allow any Buildings, grass, weeds, rubbish, noxious substances or other deleterious matter on the Land, which is or is likely to become unsightly, or a nuisance or an annoyance to other occupiers in the Subdivision.
- (h) Exclude:
 - i. screening of washing lines, service areas, boats, trailers, work vehicles and campervans; or
 - ii. well sited and carefully considered private outdoor space; or
 - iii. front yard landscaping complementing the adjoining street and public open space landscaping.
- (j) Install any vegetation plant, apart from Palm trees, that has potential
 - i. to grow to a height greater than 6 meters; or
 - ii. to grow to a height above any boundary natural ground level, greater than the total height of 1.5m plus the horizontal distance from said boundary to plant centre; or
 - iii. to grow foliage that could extend over any boundary.

General

4.10. Without first receiving the Approval of Frontier Estate (*or unless expressly permitted by these Covenants in respect of a particular Lot*), the Covenantor **shall not**:

- (a) Allow a "*Subdivision of Land*" of the Lot (within the meaning given to those words by the Resource Management Act 1991 or any replacement or substitute legislation).
- (b) Allow any easement or "*Easement Facility*" (as defined by the Land Transfer Regulations 2018 or any replacement or substitute legislation) to be agreed to, granted or registered on the Lot.
- (c) Erect any flats or other dwelling units which may be subject to a cross lease or registration under The Unit Titles Act 2010 or any replacement or substitute legislation.

Consent Matters

4.11. The Covenantor:

- (a) Will not directly or indirectly in any manner oppose, object to or appeal applications for resource consents, Plan change applications, or other consents or approvals (including appeals) by Frontier Estate in relation to land in the Frontier Estate Subdivision, or the Te Awamutu district but will support, give consent to and sign any consents or other forms required by the Covenantee to such applications or appeals; and
- (b) Will sign any other related or associated documentation to give effect to this clause 4.11 and its general tenor.

4.12. Clause 4.11 shall not enure for the benefit of any subsequent purchaser for value of any benefitted land.

4.13. The Covenantor:

- (a) Will not directly or indirectly in any manner oppose, object to or appeal applications for Resource Consents, Plan Change applications, or other consents or approvals (including but not limited to appeals) by Frontier Estate, including High Density residential development of **Lots 402 to 407 inclusive**, as shown on attached drawing titled '**OVERALL LAYOUT PLAN**' drawing **30008-01-S0-C4** relation to land in the Frontier Estate Subdivision, or elsewhere in the Te Awamutu district but will support, give consent to and sign any consents or other forms required by the Covenantantee to such applications or appeals; and
- (b) Will sign approval of any other related or associated documentation to give effect to this clause 4.13 and its general tenor.

4.14. The Covenantor:

- (a) Will not directly or indirectly in any manner oppose, object to or appeal applications for resource consents, Plan change applications, or other consents or approvals (including but not limited to appeals) for commercial development, including Day-care facilities, of Lots 604, 800 and 801 inclusive, as shown on attached drawing titled '**OVERALL LAYOUT PLAN**' drawing **30008-01-S0-C4**, in relation to land in the Frontier Estate Subdivision, or elsewhere in the Te Awamutu district but will support, give consent to and sign any consents or other forms required by the Covenantantee to such applications or appeals; and
- (b) Will sign any other related or associated documentation to give effect to this clause 4.14 and its general tenor.

4.15. There shall be no other commercial or child care entity other than on Lots 604, 800 and 801 inclusive without prior approval from Frontier Estate.

4.16. The Covenantor:

Acknowledges that it is intended the subdivision will include some commercial development and the creation of a childcare centre. As such, normal commercial practice will or may be carried on, on some of the neighbouring Lots. The Covenantor acknowledges agrees and covenants that:

- (a) The Covenantor will not object to the operation of a Child Care Centre or to the noise or other disturbances normally associated with the running of a Child Care Centre.
- (b) The Covenantor will not object to the operation of Commercial premises, acknowledging that such commercial premises may include the operation of an on-site liquor establishment. The Covenantor will not object to the noise or other disturbances normally associated with commercial activity (including an on-site liquor establishment) provided that any such commercial activity shall comply with all applicable law, including without limitation all statutes, ordinances, regulations and by-laws. The Covenantor will not object to any application for an on-premises liquor licence by a commercial operator operating premises within **Lots 800 and 801** inclusive.
- (c) The Covenantor will not make nor lodge nor be a party to nor finance nor contribute to the cost of any submission, application proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit, or restrict the continuation of the childcare centre and/or commercial operation to be undertaken.

5. Enforcement

- 5.1. The Covenantee and the Covenantor agree that Frontier Estate does not have nor shall have any legal responsibility or liability for the enforcement, enforceability, applicability, or lack of action with respect to enforcement or applicability of any of these Covenants. In addition, apart from the exercise of its discretion with respect to consents, approvals or disapprovals of matters referred to in these Covenants, Frontier Estate does not undertake to enforce or monitor compliance of these Covenants. The Covenantor (being the registered proprietors of Lots within the Subdivision) jointly and severally also agrees to keep Frontier Estate indemnified, free and harmless from any claim, liability, loss or action arising against it or its agents in this regard.

Dispute Resolution

- 5.2. If there should be any breach or non-observance of any the foregoing covenants and without prejudice to any other liability which the Covenantor may have to any person having the benefit of this covenant, should the Covenantor not rectify the breach or non-observance of any of the foregoing covenants within 15 working days of written demand being made by the Covenantee or any of the registered proprietors of the Lots, then the Covenantor, will:
- (a) Pay to the person making such demand as liquidated damages the sum of \$200.00 per day every day that such breach or non-observance continues beyond 15 working days after the date upon which each written demand notice has been given together with any costs and expenses incurred by the Covenantee or any registered proprietor to remedy the breach or non-observance; and
 - (b) Remove or cause to be removed from the land any Building, planting, Landscape feature, or other item erected on the Land in breach or non-observance of the foregoing covenants; and
 - (c) Forthwith upon receipt of any such notice to replace any such building materials or other non-conforming item used in breach or non-observance of the foregoing Covenants with the approved materials; and
 - (d) Carry out such other remedial work specified in the notice and any other work to remedy such breach or non-conformance of these Covenants; and
 - (e) Cease all activity in breach of the Covenants.
- 5.3. Except as relates to the exercise of any discretion, opinion or consent requested of Frontier Estate under these Covenants, and without prejudice to the Enforcement provisions of this document, if any dispute arises between or among the parties concerning the Covenants, then the parties shall enter into negotiations in good faith to resolve their dispute.
- 5.4. If the dispute is not resolved within twenty working days from the date on which the parties begin their negotiations, then the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties. If the parties agree that person appointed may act as an expert and not an arbitrator.
- 5.5. If an arbitrator cannot be agreed upon within a further ten (10) days, then an independent arbitrator will be appointed by the President for the time being of the New Zealand Law Society.
- 5.6. Such arbitration will be determined in accordance with the Arbitration Act 1996 (and its Amendments), or any enactment passed in its substitution.

6. Severability

If any part of these Covenants is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of these Covenants, which shall remain in full force.

7. Covenants Reference 'OVERALL LAYOUT PLAN' drawing 30008-01-S0-C4

Refer to the attached drawing titled '**OVERALL LAYOUT PLAN' drawing 30008-01-S0-C4** for location of:

- i. Lot numbers for Commercial Hub and Child Care Centre
- ii. Lot numbers for High Density residential development
- iii. Approximate Stages

