



# building covenants



**Edition 1**

# **BUILDING COVENANTS**

These Building Covenants will assist in achieving the objectives of the building scheme which has been established for the benefit of the residents of Springbrook.

The building scheme is intended to -

- ensure that Springbrook is and remains a high quality residential estate;
- enhance the prospect of Springbrook having a built environment and landscape of appealing amenity.

If these objectives are met, the value of investment in Springbrook should be preserved and enhanced.



**A refreshingly  
different world**

# BUILDING COVENANTS

The intended effect of the Building Covenants is that you (the Buyer) agree to be bound by all of the following provisions

## 1. If you decide to sell - Note

### What you will do

- 1.1 Before you list the Land for sale with any real estate agent or other person and before the Land is advertised or otherwise offered for sale, you will give the Developer written notice of your intention to sell.

### What you will not do

- 1.2 You will not sell the Land or any estate or interest in the Land unless –
- (a) you obtain from the disponee a deed poll in favour of the Developer;
  - (b) by that deed poll, the Disponee promises the Developer that the Disponee will at all times in the future observe and perform the stipulations set out in the Building Covenants; and
  - (c) by that deed poll, the Disponee otherwise makes the same acknowledgements and the same promises as those made by you to the Developer by virtue of the Building Covenants;
- so that the Disponee will be bound by the provisions of the Building Covenants.

### What the Developer will do

- 1.3 Upon written request to the Developer or the Developer's solicitor, stating the full name and address of the Disponee, the Developer will cause a copy of its standard form of deed poll and a copy of the Building Covenants to be given to you or your solicitor for the purposes of clause 1.2.

## 2. Land Use

### What you will not do

- 2.1 You will not use the Land for any purpose other than –
- (a) the construction of a detached house on it; and
  - (b) the subsequent occupation of that house as a single unit private dwelling.
- 2.2 You will not do anything if that thing is prohibited under the Building Covenants or under any laws.

### What you will do

- 2.3 You will do everything which the Building Covenants require you to do.

## 3. Building Plans Approval, Variations and Occupancy

### What you will do

- 3.1 If you wish to erect a proposed structure, you will –
- (a) first give the Developer the plans; and

(b) obtain the Developer's approval of the plans.

- 3.2 After completion of building construction, you will promptly give the Developer a set of as-built Plans for that building construction and a builder's compliance certificate in respect of those works, if the Developer gives you a written notice to do so.

### What you will not do

- 3.3 Until you have complied with clause 3.1, you will not make application to the local government for approval to erect the proposed structure.
- 3.4 You will not erect a proposed structure unless and until –
- (a) you have complied with clause 3.1; and
  - (b) the local government has given approval for the erection of the proposed structure.
- 3.5 You will not erect a proposed structure unless you comply with the Building Covenants in relation to that structure.
- 3.6 After you have obtained the Developer's approval of plans, you will not depart from those plans without the Developer's further approval.
- 3.7 You will not occupy or otherwise use any structure on the Land –
- (a) unless the structure has reached the stage of practical completion, or
  - (b) if you are in breach of any of the Building Covenants.

### What the Developer will not do

- 3.8 Subject to the Building Covenants, if you ask the Developer to approve plans, the Developer will not withhold its approval, unless –
- (a) the Building Covenants permit the Developer to do so; or
  - (b) the Developer is of the opinion that a structure built in accordance with those plans is not permitted by the Building Covenants.

## 4. Structures – Workmanship and Materials

### What you will not do

- 4.1 You will not erect any proposed structure unless you erect it in a workmanlike manner.

## 5. External Wall Surfaces

### What you will not do

- 5.1 If the proposed structure is a house or some other structure which is to have an external wall with a face brick surface, you will not build the wall unless –

- (a) the colour of the **mortar** used in the wall complements the colour of the face brick surface; and
- (b) the brick used in the wall is **standard size brick**.
- 5.2 If the **proposed structure** is a house or some other **structure** which is to have an external wall, **you will not** build the wall unless at least eighty per centum (80%) of its external surface will be –
- (a) face brick; or
- (b) brick with textured or smooth rendered **mortar** and painted finish; or
- (c) concrete block with textured or smooth rendered **mortar** and painted finish.
- 5.3 If a **proposed structure** is a house or some other **structure** which is to have an external wall, **you will not** build any part of the wall out of **alternate materials**, except to the extent shown on any **plans** which have the **Developer's approval**.

## 6. Roofs - Gable

### *What you will not do*

- 6.1 If a **proposed structure** is a house or some other **structure** which is to have a gable roof, **you will not** build a gable roof which –
- (a) is flush with the underlying wall or walls; or
- (b) has a projection of less than 300mm; or
- (c) does not have relief and character (on the gable) in the nature of decorative trim or features.

### *What you will do*

- 6.2 If a proposed **structure** is to have a gable roof, **you will** obtain the **Developer's approval** of the decorative trim and features for the gable.

## 7. Roofs - Pitch and Eaves

### *What you will not do*

- 7.1 If a **proposed structure** is to have a roof, **you will not** build the roof unless –
- (a) it has a pitch of 25 degrees or more, in the case of a single storey structure;
- (b) it has a pitch of 22 degrees or more, in the case of a two storey structure;
- (c) the eaves will be more than 450 millimetres, in depth, unless **you** obtain the **Developer's approval** to something less; and
- (d) the roof material covering is –
- colour concrete tile; or
  - clay tile; or
  - colourbond (or equivalent) non-reflective metal which has a custom orb profile.

### *What the Developer will do*

- 7.2 If **you** ask the **Developer** to approve eaves which will be less than 450 millimetres in depth, the **Developer will not** withhold its **approval**, unless it is of the **opinion** that something less would not complement the architectural style of the **proposed structure**.

## 8. Painting

### *What you will not do*

- 8.1 **You will not** erect a **proposed structure** unless, when **you** are doing so, **you** paint or stain all external parts of the structure which, according to best building practice, should be painted or stained.

## 9. High-Set or Suspended Floor House

### *What you will not do*

- 9.1 If a **structure** on the **Land** is –
- (a) a high-set **house**; or
- (b) another type of **house** with a suspended floor,
- you will not** occupy it until **you** have enclosed, fully, the lower storey of the **structure**, in accordance with **plans approved** by the **Developer**.

## 10. Excavation

### *What you will not do*

- 10.1 **You will not** –
- (a) locate;
- (b) site;
- (c) design; or
- (d) build

on the **Land** any **structure** which does not take advantage of the natural slope conditions of the **Land**.

[**For example** a split level **house** could be designed to follow natural slope conditions and to avoid ugly and expensive earthworks which may scar the natural landscape.]

- 10.2 **You will not** –
- (a) excavate; or
- (b) fill any part of the **Land** so that its level is altered by more than 1 metre, unless –
- (c) **you** construct a wall, in conjunction with that work, to retain the excavation or fill; and
- (d) **you** have obtained the **approval** of –
- (i) the **Developer**; and
- (ii) the **local government** (if necessary) for the construction of the wall.

- 10.3 **You will not** –

- (a) excavate; or
- (b) fill any part of the **Land** so that its level is altered by less than 1 metre, unless **you** –
- (c) slope the gradient of any batter to 25 degrees or less; and
- (d) completely turf and/or **landscape** the slope.

## 11. House Construction Delays

### *What you will not do*

- 11.1 **You will not** delay beyond –
- (a) the first anniversary of the **date of possession**, the commencement of construction of a **house**;
  - (b) eight months, the total construction time, once **you** have commenced to construct a **house**; or
  - (c) two months, any **stop-work period**.

## 12. House Removal

### *What you will not do*

- 12.1 **You will not** erect any **house** or other **structure** on the **Land** if it has been moved from another place.

## 13. Storage and Disposal of Rubbish

### *What you will not do*

- 13.1 **You will not** do anything which could cause the **Land** or any **other land** to become –
- (a) untidy; or
  - (b) **contaminated**,  
by **rubbish** –
  - (c) during the course of **building construction**; or
  - (d) at any other time.
- 13.2 **You will not** accumulate or place any **rubbish** on or near the **Land** in any manner which is contrary to **laws** or in any manner which permits the emission of odour or fumes.
- 13.3 **You will not** put any **rubbish** on **other land**.
- 13.4 Subject to and/or in accordance with any **laws**, except with the **Developer's approval**, after–
- (a) completion of **building construction**; and
  - (b) occupation of the **Land** as a residence,  
**you will not** use or locate on the **Land** any **rubbish receptacle** other than a domestic bin.
- 13.5 **You will not** use or locate any incinerator on the **Land**.
- 13.6 After the completion of **building construction**, **you will not** locate a **rubbish receptacle** on the **Land** so as to be visible from the **front road**.

### *What you will do*

- 13.7 Subject to any **laws**, during –

- (a) the course of **building construction**; and
- (b) at all other times,

**you will** store all **rubbish** in a **rubbish receptacle** on the **Land**.

- 13.8 During the course of **building construction** and at all other times, **you will** –
- (a) empty or remove any **rubbish receptacle** before it becomes overloaded; and
  - (b) dispose of the contents in accordance with the relevant **laws**.

## 14. Damage to Adjoining Roads and Lands

### *What you will not do*

- 14.1 **You will not** damage any **other land**. In particular, **you will not** damage the surface of any **other land**.

### *What you will do*

- 14.2 If any **other land** is damaged and –
- (a) **you** caused the damage;
  - (b) permitted the damage to be done; or
  - (c) the damage was done by a **contractor**  
then, at your expense, **you will** repair the damage, immediately, and, in particular, **you will** –
  - (d) relay, restore and/or replace any damaged turf; and
  - (e) water and otherwise cultivate any such relaid, restored and/or replaced turf until it is established.

## 15. Lawns and Gardens - Establishment

### *What you will do*

As soon as practically possible after completion of any **building construction** which includes a **house** **you will landscape** the **Land** and the **nature strip** by establishing –

- (a) lawns; and
- (b) gardens.

- 15.2 In particular, **you will landscape**, by turfing –

- (a) any part of the **yard** which lies between any **house** and any **front road**; and
- (b) **the nature strip**

within one (1) month after practical completion of the **house**, and, in any event, before **you** occupy or otherwise use the **house**.

- 15.3 **You will** complete all **landscaping** within two (2) months after the date of practical completion of the **house**.
- 15.4 **You will not** plant any tree, shrub or bush on the **nature strip** unless –
- (a) the **local government** has given its **approval** for

that planting;

- (b) the **Developer** has given its **approval** for that planting; and
- (c) the tree, shrub or bush is of the same species and variety as that planted by the **Developer** on other parts of the **road** of which the **nature strip** is part.

## 16. Lawns and Gardens – Maintenance

### *What you will not do*

- 16.1 **You will not** let any weed –
- (a) grow to maturity;
  - (b) grow out of control; or
  - (c) remain
- on the **Land** or on the **nature strip**.

- 16.2 **You will not** let any lawn –
- (a) grown to a height in excess of 100 millimetres; or
  - (b) become or remain unsightly;
- on the **Land** or its **nature strip**.

### *What you will do*

- 16.3 **You will** regularly maintain and preserve according to good horticultural practices and in a proper and husband-like manner, all

- (a) lawns;
- (b) lawn edges; and
- (c) gardens

on the **Land** and on its **nature strip**.

- 16.4 **You will** replace any **trees, shrubs or bushes** which have –
- (a) been removed;
  - (b) been damaged; or
  - (c) perished.

with trees, shrubs or bushes of the same or similar species and of the same of similar variety.

## 17. Minimum House Size

### *What you will not do*

- 17.1 **You will not** erect a **house** which is less than the **minimum house size**.
- 17.2 **You will not** erect a **house**, unless –
- (a) the **house** includes at least two lock-up **garages**; and
  - (b) the lock-up **garages** and the rest of the **house** are located under the same roof.
- 17.3 **You will not** build a single storey **house** on the **Land** unless the width of the face of the external front wall of the **house** (“**width measurement**”) exceeds

13.00 metres.

## 18. Carports

### *What you will not do*

- 18.1 **You will not** construct a **carport** unless –
- (a) **you** have obtained the **Developer’s approval** of the **plans** and specifications for the **carport**;
  - (b) a **house** has been built;
  - (c) the **carport** will be built with solid peer supports; and
  - (d) the **carport** will have the same style of roof structure as the **house**.
- 18.2 **You will not** use any **carport** for any purpose other than to accommodate a registered roadworthy **motor vehicle**.
- 18.3 In particular, **you will not** use a **carport** for –
- (a) storage purposes; or
  - (b) a workshop.

## 19. Sheds

### *What you will not do*

- 19.1 **You will not** erect a shed on the **Land** unless **you** have obtained the **Developer’s approval** of the **plans** and specifications for that **structure**.
- 19.2 In **any** event, **you will not** erect a shed on the **Land** if, when it is constructed, it will be –
- (a) visible from the **road**; or
  - (b) forward of any **front building alignment**.

### *What the Developer may do*

- 19.3 The **Developer may** withhold **approval** to the erection of a shed on the **Land** if the **proposed structure** does not satisfy the following criteria –
- (a) in the case of a shed which will have a floor area of less than 8 square metres, the cladding must be –
    - colourbond (or other similar material); and
    - predominantly green in colour, with a non-reflective surface; or
    - compliant with clause 19.3(b)
  - (b) in the case of a shed which will have a floor area of more than 8 square metres, the shed must be designed and constructed to compliment –
    - in shape, the shape of the **house**; and
    - in materials and colours, the materials and colours used in the external wall surfaces and roof of the **house**.
  - (c) the maximum floor area of the **proposed structure** must not exceed 20 square metres.

## 20. Temporary Structures

### *What you will not do*

- 20.1 Subject to **clause 20.2**, **you will not** bring onto or erect on the **Land** –
- (a) any temporary dwelling;
  - (b) a caravan;
  - (c) a privy; or
  - (d) any other thing which may be or become an eyesore or a nuisance to any **person**.

### *What you may do*

- 20.2 Subject to **clause 20.1**, **you may** bring onto or erect on the **Land**, during the course of construction of a **house** –
- (a) a shed;
  - (b) a workshop; or
  - (c) an office.

### *What you will do*

- 20.3 If **you** bring onto or erect on the **Land**, during the course of construction of a **house** –
- (a) a shed;
  - (b) a workshop; or
  - (c) an office;
- you will** remove it immediately after completion of that **building construction**.

## 21. Pathways, Driveways and Crossings

### *What you will not do*

- 21.1 **You will not** permit any weeds, leaves, branches, twigs, lawn clippings and other **rubbish** to grow or remain on any driveway, path or **crossing**.

### *What you will do*

- 21.2 **You will** sweep away or otherwise remove all leaves, branches, twigs, lawn clippings and other **rubbish** from paths, driveways and **crossings** on or adjacent to the **Land**, regularly.

## 22. Verandahs

### *What you will not do*

- 22.1 **You will not** use any **verandah** for –
- (a) storage purposes; or
  - (b) as a workshop.

## 23. Signs

### *What you will not do*

- 23.1 **You will not** place or erect a sign on or near the **Land** or the **nature strip**, unless it is a **permitted sign**.

## 24. External Fixtures

### *What you will not do*

- 24.1 **You will not** place, erect on or attach to the **Land**, or any **structure** on the **Land**, any **external fixture** if it will be visible from a **front road**.
- 24.2 **You will not** place or erect on or attach to the **Land**, or any **structure** on the **Land**, any **external fixture** which is an antenna or satellite dish if it will be forward of the main roofline at the rear of the **house**.
- 24.3 **You will not** place or erect on or attach to –
- (a) the **Land**; or
  - (b) any **structure** on the **Land**, above ground level
- any **external fixture** which is a **prohibited satellite dish**.

## 25. Parking

### *What you will not do*

- 25.1 **You will not** park any **motor vehicle**, caravan, trailer, boat or other vessel forward of the **front building alignment** unless it is parked in a **garage** or **carport**.
- 25.2 **You will not** park any **motor vehicle**, caravan trailer, boat or other vessel behind the **front building alignment**, unless **you** park it –
- (a) in a **garage** or **carport**; or
  - (b) in a location which is screened by **landscaping** so as not to be visible from a **front road**.
- 25.3 **You will not** park any **motor vehicle**, caravan trailer, boat or other vessel in any manner other than a lawful manner on any **road** in the **Development**.

## 26. Display Homes

### *What you will not do*

- 26.1 **You will not** use the **Land** for the purpose of a **display home** unless **you** have obtained the **approval** of –
- (a) the **Developer**; and
  - (b) the **local government** (if necessary).

## 27. Driveways

### *What you will do*

- 27.1 Before **you** occupy any **house** as a residence, **you will** build a driveway from the **garages** and **carport** (if any) to the **front road** out of –
- (a) pavers; or
  - (b) concrete with –
    - an exposed aggregate;
    - a stencilled; or
    - a stamped

surface.

## 28. Fences

### *What you will not do*

- 28.1 **You will not** build a **fence** to the rear of the **front building alignment** unless it will be a **complying fence**.
- 28.2 **You will not** build a **fence** forward of the **front building alignment** unless **you** have obtained **approval** of the **Developer** to do so.

### *What the Developer may do*

- 28.3 The **Developer may** withhold **approval** to the erection of a **fence** if the **proposed structure** will –
- (a) be forward of the **front building alignment**; and
  - (b) not be a **permitted fence**.

## 29. Animals

### *What you will not do*

- 29.1 **You will not** keep on the **Land** -
- (a) a cat unless it is fitted with a collar and bell;
  - (b) a dog unless the **Land** has been fenced in a way –
    - which does not conflict with the **Building Covenants**; and
    - which will restrain the dog from leaving the **Land**;
  - (c) more than two of the one species of animal;
  - (d) any animal in contravention of any **laws** relating to the keeping or treatment of animals.

## 30. Trespassing

### *What you will not do*

- 30.1 **You will not** –
- (a) trespass on **other land** (other than a **road**);
  - (b) enter upon any **other land** (other than a **road**) without the **approval** of the registered owner of that land;
  - (c) damage the surface or any other part of **other land**.

## 31. Penalty for Breach of Building Covenants

### *What you will do*

- 31.1 On demand, **you will** pay a **penalty amount** to the **Developer** as security for the payment of any damages or losses which the **Developer** may sustain if there is a **breach**.

### *What the Developer may do*

- 31.2 The **Developer may** apply a **penalty amount** (or any part of it), which it receives or recovers from **you**,

to satisfy (in whole or in part) any claim which the **Developer** may have against **you**, at any time, for a **breach**.

### *What the Developer will do*

- 31.3 Before the **Developer** makes a demand for a **penalty amount**, a **breach** must have occurred and the **Developer** must have given **you** a written notice –
- (a) specifying the particular **breach** complained of; and
  - (b) if it is capable of remedy, requiring **you** to remedy the **breach**; and
  - (c) if the **Developer** seeks compensation in money for the **breach**, requiring **you** to pay that money
- and **you** must have failed to –
- (d) remedy the **breach** (if it is capable of remedy); or
  - (e) pay reasonable compensation to the **Developer** for the **breach**

within fourteen (14) days after the notice is given to **you**.

[**Note** – a written notice under this **clause** 31.3 may be given in separate parts and at the same or different times. For example, the first part of such a notice may specify the particular **breach** complained of and require **you** to remedy it and another part may be given at the same or later time requiring **you** to pay compensation in money.]

## 32. Breach of Building Covenants

### *What the Developer may do*

- 32.1 To satisfy itself that **you** have complied with the **Building Covenants**, the **Developer may** –
- (a) at all reasonable times; and
  - (b) upon giving **you** reasonable notice (except in an emergency when no notice need be given);
- enter the **Land** and inspect the **Land** and **structures** on the **Land**.
- 32.2 The **Developer may** remedy any **breach** and, for that purpose, the **Developer may** enter the **Land** and –
- (a) remove any **structure**, chattel or animal; or
  - (b) perform any works.
- 32.3 As liquidated damages, the **Developer may** recover from **you** any moneys (including costs of storage or disposal) which it spends in the exercise of the **Developer's** powers under the **Building Covenants**.

## 33. Variation of Building Covenants

### *What you will not do*

- 33.1 **You will not** –

- (a) make any claim; or
- (b) commence or prosecute any proceedings (whether for injunctive relief or otherwise)

if the **Developer** makes a **Building Covenants** variation.

#### **What you will do**

33.2 If the **Developer** makes a **Building Covenants variation**, you will be bound by the **Building Covenants**, as varied, once the **Developer** gives you a copy of the **Building Covenants**, as varied, by the **Building Covenants variation**.

#### **What the Developer may do**

33.3 Subject to clause 33.4, the **Developer may** make a **Building Covenant's variation**, at any time.

#### **What the Developer will not do**

33.4 The **Developer will not** make a **Building Covenants variation** if, in the **Developer's opinion**, the effect of the **Building Covenants variation** (if made) would be contrary to the **building scheme**.

### **34. Exit and Sunset Provisions**

#### **What you will do**

34.1 **You will –**

- (a) observe;
- (b) perform; and
- (c) fulfil

all of your obligations under the **Building Covenants** until the **end date** to the extent that they require you to do or not to do any act or thing.

[**Note – this clause** is without prejudice to any rights or obligations which may have accrued to or against any **person** under or by virtue of the **Building Covenants** before the **end date**.]

#### **What the Developer may do**

34.2 At any time, the **Developer may –**

- (a) assign its rights and any of the obligations which it has under or by virtue of the **Building Covenants** to any **person**;
- (b) appoint, in addition to or in place of the **Developer**, any **person**, either by power of attorney or otherwise, to exercise any of the **Developer's** rights and powers (including the right to appoint a substitute or substitutes) under the **Building Covenants**;
- (c) appoint, in addition to or in place of the **Developer**, any other **person**, either by power of attorney or otherwise, to perform any function intended, by the **Building Covenants**, to be performed by the **Developer**; and
- (d) at any time, revoke any such appointment and substitute or appoint another **person** or **persons** in place of any such appointee.

34.3 The **Developer may –**

- (a) establish;
- (b) assist in; or
- (c) promote

the establishment of an association (whether incorporated or not) of owners of land in the **Development** for the purposes, amongst other things, of –

- (d) exercising any of the rights and powers which the **Developer** has under the **Building Covenants**; and/or
- (e) performing any function intended, by the **Building Covenants**, to be performed by the **Developer**.

[**Note – the provisions of this clause** are intended to have effect so that some **person** will continue to have power to give or withhold approvals under the **Building Covenants** if and when the **Developer** ceases to be the registered owner of any land in the **Development**.]

### **35. Dictionary and Interpretation**

35.1 In the **Building Covenants –**

“**alternate materials**” includes timber, textured panels and thermal cladding.

“**approval**” means a written approval.

“**approved**” means approved by an **approval**.

“**boundary**” means a boundary of the **Land**.

“**breach**” means a breach by **you** of any covenant, obligation, condition or agreement on your part (express or implied) in or under the **Building Covenants**.

“**builder**” means any **person** engaged, from time to time, by **you** or on your behalf under any contract of service or contract for services, for the purposes of carrying out any **building construction**.

“**builder's compliance certificate**” means a written statement addressed to the **Developer** and signed by a **builder** to the effect that **building construction** carried out by that **person** has been completed strictly in accordance with **plans approved** by the **Developer** for those works.

“**building construction**” means works involving the erection of a **proposed structure** or of any other **structure**.

“**Building Covenants**” means this booklet or document or, as the case may be, this booklet or document as varied, from time to time, by a **Building Covenants variation**.

“**Building Covenants variation**” includes an addition to or other amendment or a repeal of anything in the **Building Covenants**.

“**building scheme**” means the building scheme which the **Developer** has established for the **Development**.

“**Buyer**” means the **person** who purchases the **Land** from the **Developer** and that **person’s** successors and assigns.

[for example, “**Buyer**” could mean any future registered owner of the **Land**]

“**carport**” means a detached carport or an attached carport on the **Land**.

“**clause**” means a clause in the **Building Covenants**.

“**complying fence**” means a **fence** which will comply with all **laws** relating to fences and which –

- will not exceed 1,800mm in height; and
- will be constructed of timber posts, rails and palings.

“**contaminated**” means contaminated by a **hazardous contaminant**.

“**contractor**” means your invitees, licensees and contractors and other **persons** (other than trespassers) who are on or near the **Land** from time to time.

“**crossing**” means a crossing on a **nature strip**, being a crossing which has, as some of its main uses, use by **motor vehicles** and pedestrians.

“**date of possession**” means the date on which the **original occupier** became entitled to take possession of the **Land**.

“**deed poll**” means a document in or to the effect of the **Developer’s** standard form of deed poll from time to time which inter alia –

- will contain a waiver by the **Disponee** of any right to claim from the **Developer** a contribution towards the cost of building, maintaining or repairing any dividing fence between the **Land** and any adjoining land owned by the **Developer**; and
- may contain a promise by the **Disponee** in favour of the **Developer** that the **Disponee** will, in the future, observe and perform any of the ongoing contractual obligations of the **original occupier** to the **Developer**.

“**defined term**” means words or phrases which are defined or explained in **clause** 35.1.

“**detached house**” means a detached dwelling house.

“**Developer**” means Easterly Projects Pty Ltd ABN 13 104 780 618.

“**Development**” means the residential development known as “Springbrook – Village Green” at Redlynch, Cairns, Queensland of land described (or formerly described) as Lot 32 on SP162914.

“**display home**” means a **house** used or intended for use for –

- displaying a type of dwelling that can be built; or
- displaying a dwelling as a prize.

“**Disponee**” means a **person** from whom **you** must procure a **deed poll** under **clause 1.2(a)**.

“**end date**” means the 31st day of December 2018.

“**erect**” includes undertaking any preparatory works for a **proposed structure**, for example, digging trenches or holes, excavating, filling, retaining, clearing and removal of vegetation.

“**external fixtures**” includes an air conditioning generator or condenser, solar hot water heater, tank, clothesline, antenna and satellite dish.

“**face of a wall**” is a reference to a face of an external wall of a **house** when viewed from a **front road**.

“**fence**” means a fence on or about the **Land**.

“**front building alignment**” – see **clause** 35.7.

“**front road**” means any **road** which is adjacent to the **Land**.

“**frontage**” means the common **boundary** between the **Land** and a **front road**.

“**garages**” means the garages which form part of any **house**.

“**hazardous contaminant**” has the same meaning as that expression has in the Environmental Protection Act 1994 (Qld).

“**house**” means a **detached house** on the **Land**.

“**Land**” means a lot which you have purchased in the **Development**.

“**landscape**” means (as a verb) the laying out of grounds so as to produce the effect of natural scenery and “**landscaping**” bears a similar meaning.

“**lawn**” means any grass or similar ground cover on the **Land** or its **nature strip** which has been laid as turf and includes any weeds in that ground cover.

“**laws**” includes any requirement of any statute, rule, regulation, proclamation, ordinance or by-law or other instrument of subordinate legislation, present or future, and whether state, federal or otherwise.

“**letterbox**” means any receptacle on or about the **Land** which has the appearance of being for the purpose of mail delivery.

“**local government**” means the local government in whose area the **Land** is located and includes Cairns City Council.

“**minimum house size**” means –

- or a single storey **house** – 130 square metres; and
- for a two storey **house** – 190 square metres over both levels, 110 square metres (or more) of which must be on the lower level.

[Also see **clause** 35.9.]

“**mortar**” includes other types of grouting.

“**motor vehicle**” has the same meaning as that

which the expression has in the Transport Operations (Road Use Management) Act 1995 (Qld).

“**nature strip**” means that part of any **road** which adjoins the **Land** and which is designed or intended for pedestrian traffic or use and includes an appurtenant **lawn** or garden and a **crossing**.

“**opinion**” means an opinion formed on reasonable grounds.

“**original occupier**” means **you**, if **you** purchased the **Land** from the **Developer**; otherwise it means the **person** who purchased the **Land** from the **Developer**.

“**other land**” means any land (including a **road**) in the vicinity of the **Land**.

“**penalty amount**” means ten thousand dollars (\$10,000.00).

“**permitted fence**” means a fence which will comply with all **laws** relating to fences and–

- a **fence** which will be constructed of brick, stone or rendered or painted masonry piers and which will have decorative infill panels which complement the architectural style of any **house**; or
- if a **house** is of colonial heritage style, a **fence** which –
  - will not exceed 1200 mm in height;
  - will be colonial in style with decorative posts and palings;
  - will be painted to complement the colours of the house; and
  - will have posts no smaller than 150 mm x 150 mm in section.

“**permitted sign**” means a sign the dimensions of which do not exceed 0.900 m x 0.600 m and which either advertises –

- the name and other particulars of the builder of a **structure** on the **Land**; or
- the fact that a **house** is for sale or available for letting.

“**person**” includes a corporation and vice versa.

“**plans**” means the plans for a **proposed structure**.

“**prohibited satellite dish**” means a satellite dish which –

- has a diameter of more than 650 mm; or
- would be visible from a **front road**.

“**proposed structure**” is a **structure** which **you** intend to erect on or about the **Land**.

“**road**” has the same meaning as that which the expression has in the Transport Operations (Road Use Management) Act 1995 (Qld).

“**rubbish**” includes contaminants, building debris or other waste or garbage.

“**rubbish receptacle**” means a bin, skip, cage or other vessel which is suitable for the temporary storage of **rubbish**.

“**sell**” means sell, transfer, lease or otherwise dispose of.

“**standard size brick**” means a brick which measures 230mm x 110mm x 86mm.

“**stop-work period**” means any period of time after the commencement of construction of a **proposed structure** when, for any reason, substantial **building construction** is not carried out.

“**structure**” includes a **fence**.

“**trees, shrubs or bushes**” means trees, shrubs or bushes which have been planted on the **Land** or the **nature strip**.

“**verandah**” means a verandah which forms part of a **house**.

“**width measurement**” – see **clause** 17.3 and **clause** 35.12.

“**workmanlike manner**” includes a manner which is in accordance with best building practices and the use only of new materials of first class quality.

“**yard**” means that part or those parts of the **Land** which are not covered by a **house** or other structures.

“**you**” means the **Buyer**.

“**your email address**” means any address shown in the records of the **Developer** as the address for communication with **you** by email and if more than one such address is recorded, then, it means any address which appears in the most recent record.

“**your facsimile number**” means any number shown in the records of the **Developer** for the purposes of communicating with **you** by facsimile transmission and if more than one such number is recorded, then it means any number which appears in the most recent record.

A derivative of a **defined term** has a corresponding meaning.

The singular includes the plural and vice versa.

If “**you**” is a reference to two or more **persons**, the **Building Covenants** bind all of **you**, together, and each of **you**, separately.

Likewise, if “**Buyer**” is a reference to two or more **persons**, the **Building Covenants** bind all of those **persons**, together, and each of them, separately.

35.2 **Clause** 35.1 applies only to the extent that a contrary intention is not apparent.

35.3 If any **clause** has a heading, the heading is not to be taken into account in the construction or interpretation of the **clause** to which it is attached.

35.4 Where the **Building Covenants** say that **you will not** do something, it also means that the **you will not** permit any **person** to do that thing and that **you will**

prevent any **person** from doing that thing.

- 35.5 Where the **Building Covenants** say that **you will do** something, it means that **you will** either do that thing or cause it to be done by another **person**.
- 35.6 Whether a colour or other thing complements another colour or other thing or not is solely a matter for the **Developer's opinion**.
- 35.7 If there is more than one **front road**, each **boundary** which abuts a **front road** is deemed to be a front **boundary** and any building alignment which faces a **front road** shall be deemed to be a **front building alignment**.
- 35.8 If the **Developer** makes an assignment or appointment under **clause** 34.2, all references in the **Building Covenants** to the **Developer** will be read as references to the assignee or to the appointee or substitute or substitutes during the term of their appointment, as the case may be.
- 35.9 In calculating a **minimum house size** (see **clause** 35.1), no regard is to be had to areas designed for **verandahs**, patios, porches, connecting breezeways, **garages**, **carports** or other areas for **motor vehicle** accommodation.
- 35.10 For the purposes of the **Building Covenants**, a thing will be visible from a **front road**, if any part of it is capable of being seen, with the naked eye, from any point up to two (2) metres above any part of the surface of the **front road**.
- 35.11 If the face of an external front wall of a single storey **house** cannot be represented graphically by one straight line, the **house** will be deemed, for the purposes of the **Building Covenants**, to have more than one external front wall face.
- 35.12 In calculating a **width measurement** –
- (a) no account will be taken of the width of the face of a **garage** wall to the extent that the last mentioned width exceeds 6.50 metres;
  - (b) the width of a wall opening, for example, for doors or windows, **will be taken into account**;
  - (c) the width of each external front wall face of a **house** will be taken into account.
- 35.13 Without prejudice to any other lawful method of giving or serving a written notice or other written communication which a **person** desires or is required to give to or serve upon **you**, for the purposes of the **Building Covenants**, that notice or communication will be deemed to have been given or served upon **you** if and when it is left in an envelope addressed to **you** in the **letterbox** or if and when it is placed under a door of a **house** or if and when it is otherwise placed on or attached to any **structure** on the **Land** or if and when a copy of it is sent to **your facsimile number** or if and when a copy of it is sent to **your email address**.
- 35.14 If **you** consist of two or more **persons**, any such written notice or other written communication which a **person** desires or is required to give to or serve upon **you** shall be deemed to have been given to or served upon **you** if and when it is given to or served

upon one of **you**, despite any subsequent giving or serving of the notice or communication to or upon the other or others of **you**.

- 35.15 For the avoidance of any doubt, **you** agree that **you** will have no rights against the **Developer** if the **Developer** makes a **Building Covenants variation**.
- 35.16 The **Developer** may withhold its **approval** to anything under the **Building Covenants** at any time or during any period when –
- (a) there is a **breach**; or
  - (b) any **penalty amount** or compensation under the **Building Covenants** remains unpaid; or
  - (c) the **Developer** has claimed but not recovered from **you** damages for a **breach**.
- 35.17 **You** acknowledge and agree that –
- (a) the **Building Covenants** are fundamental to the creation and preservation of the amenity, quality and value of the **Development** and that the existence of the **Building Covenants** enhances the **Development**, including, inter alia, from both the marketing and ownership perspectives.
  - (b) if **you** do or attempt or threaten to do anything which is or would be a **breach**, the loss or damage incurred by the **Developer** and/or the buyers of other lots in the **Development** (by reason of such a **breach**) will not be sufficiently or adequately compensated by a judgment, order, or other award of damages or the payment of damages;
  - (c) the **Developer** has the right to apply for and obtain injunctive relief against **you** in respect of any such **breach** despite the nature or amount of inconvenience which any such relief might cause to **you** or any other **person**;
  - (d) any such injunctive relief shall be in addition to and not in lieu of or in limitation of, any other remedy which the **Developer** may have by virtue of any agreement or otherwise at law or in equity.
  - (e) any legal proceedings instituted against **you** by the **Developer** shall be brought in the courts at Brisbane;
  - (f) the **Building Covenants** shall be governed by and construed in accordance with Queensland law;
  - (g) **you** will submit to the non-exclusive jurisdiction of the Queensland courts as regards any claim or matter arising under the **Building Covenants**.

