

## **ANNEXURE "B" BUILDING COVENANTS**

### **Emerald Hill Estate**

#### **A. Building Covenant General**

##### **1. Acknowledgement**

- 1.1 The Buyer acknowledges and agrees with the Seller that the allotment is part of a subdivision, the object of which is to establish a modern, high value, well-designed and environmentally responsible community. It is desirable that supervision and control be exercised by the Seller for the protection of and in the interest of the Buyer in relation to the nature and type of dwelling constructed on the allotments of the Estate towards a modern, integrated, valuable, attractive and good neighbourly development through the subdivision.
- 1.2 The Buyer shall not lodge any objection, appeal or submission in respect of any application made or approval received by the Seller in respect of any land in the Estate or any adjoining or neighbouring land.
- 1.3 The Buyer agrees to be bound with the Seller in this building covenant for the purposes set out in 1.1.

##### **2. Continuity of Building Covenant**

- 2.1 This building covenant forms part of the contract of sale of the Allotment in the Estate between the Seller and the Buyer named herein ("**Contract**") together with the executors, administrators, assigns or successors in the title of the Buyer.

##### **3. Assignment of Building Covenant**

- 3.1 The Buyer acknowledges that he/she/they will not sell, transfer or, otherwise dispose of the Allotment without first delivering to the Seller, a deed of covenant, on terms and conditions to be approved by the Seller, duly signed and executed by such buyer, transferee or disponent in favour of the Seller containing covenants in the same terms (*mutatis mutandis*) as are set forth in this building covenant including an obligation for each future buyer, transferee or disponent to obtain a further such deed of covenant from any subsequent buyer, transferee or disponent.
- 3.2 The Buyer agrees to provide the Seller with a photocopy of any agreement that purports to sell, transfer or dispose of the Allotment immediately such agreement has been executed by the parties to the agreement and evidencing compliance with 3.1.

##### **4. Penalty for Breach of Covenant**

- 4.1 Upon any breach of this building covenant by the Buyer and/or his/her successors, the Buyer shall, upon demand, pay to the Seller by way of liquidated damages and not by way of penalty, the sum of \$20,000.00.
- 4.2 Further the Buyer indemnifies the Seller for any and all loss and damage which the Seller may suffer due to the breach of this Building Covenant by the Buyer and/or his successors.

##### **5. Duration of Building Covenant**

- 5.1 This building covenant shall continue until a dwelling approved in all respects by the Seller has been completed on the Allotment or 20 years from the date of completion of the initial purchase of the Allotment from the Seller, whichever is the sooner.

##### **6. Disclaimer**

- 6.1 The Seller will have due regard to the provisions of this building covenant but may, in its absolute discretion, grant approval subject to such terms and conditions or waive some as it may determine.
- 6.2 The requirement for approval of the Seller under this clause is in addition to and not in lieu of any requirement of a state, local government or other competent authority.
- 6.3 Any approval granted by the Seller shall not constitute either any agreement or representation as to the adequacy, suitability or fitness of any plans and specifications or to the siting of the dwelling or that of the relevant state or local government or other competent authority will grant its approval and the Buyer acknowledges that he/she/they has/have not placed any reliance on such approval.

**7. Rights of the Seller**

- 7.1 The Seller gives no undertaking to impose identical covenants to those in this Annexure when selling other land in the Estate. It is agreed by the Seller and the Buyer that it is not the intention by virtue of these covenants to create any legal duty enforceable by a third party against the Seller.

## **B. Building Covenant**

### **Design Requirements**

#### **8. Commencement on Allotment**

- 8.1 No development including, but not limited to, dwelling, out building, garage, lawn locker/garden shed, fencing, pool, excavation or retaining wall shall be commenced unless working drawings and specifications showing the design, materials for external elements of structure, walls roofing or such other combination of materials ("**Plans & Specs**") have been submitted, in accordance with the provisions of this building covenant, to the Seller and approved by the Seller in writing prior to application for a building permit being lodged with the Ipswich City Council ("the **local authority**").
- 8.2 The Seller may grant or refuse such request or waive any condition or conditions or grant such approval subject to such conditions as the Seller may determine in its absolute discretion, subject only to clause [8.3](#) below. Unless otherwise advised in writing by the Seller, all applications, dealings and approvals required under this building covenant shall be dealt with, at no cost to the Buyer.

#### **9. Use of the Allotment**

- 9.1 The Allotment shall only be used for private dwelling purposes.

#### **10. Dwelling**

##### **10.1 Design**

<b>Dwelling</b>	The design of the dwelling (including pergolas, verandahs etc), its suitability for use of Allotment, orientation, floor levels and the use of external materials and colours shall be subject to approval by the Seller acting reasonably and both in accordance with the purposes set out in clause <a href="#">1.1</a> .
<b>Eaves</b>	The design of the dwelling constructed on the Allotment shall incorporate no less than 400 mm width eaves to each side (exception: built to boundary walls) unless otherwise approved by the Seller which approval or non approval shall take into consideration the nature and style of the dwelling to be constructed on the Allotment.
<b>Foundation</b>	Raw concrete or steel used for foundations or supports of a dwelling (not being part of a roof or external wall) shall be concealed from view from the street frontage of the Allotment.
<b>Roofing Stormwater</b>	<b>&amp;</b> Roofing and the storm water system of the dwelling must be designed such that it aids in the rapid egress of water from the roofing surfaces, including so as to aid in the efficient collection of good quality water in tanks or other storage on site, or if not collected on site, to aid the operation of the storm water system, whether onsite or off, including for example by achieving velocities or volumes which aid silt scouring. The lower level of either a double level or split-level dwelling shall be totally enclosed.
<b>Vehicular Driveways</b>	Vehicular driveway/s shall be constructed at the same time as the dwelling and shall: <ul style="list-style-type: none"> <li>□ be no more than five (5) metres width at the street boundary of the Allotment;</li> <li>□ be no less than three (3) metres width at any one point; and extend from the kerb line to the garage of the Dwelling.</li> </ul>

## 10.2 **Materials**

- All materials** Except for the external walls and roofing, only new good quality building materials shall be used for construction of the dwelling.
- External Walls** Except for the front exterior of all dwellings (where cement rendering is mandatory including a 1m wrap to both sides of the dwelling or combination of rendered brickwork, weatherboard or feature panelling), the preferred external cladding shall be primarily of either brick, brick veneer, stone or concrete block with either textured render or painted finish.
- Roofing** Roof pitch should be 25 degrees.  
Roofing should comprise Colourbond®. The Seller may refuse to approve reflective Roofing materials which either:
- fail to minimise the potential adverse effects on the external appearance of the building; or
  - unreasonably prevent or interfere with a person's use and enjoyment of the dwelling or another building.
- Vehicular Driveways** Vehicular driveway/s shall be constructed of either pavers, exposed aggregate, stamped coloured concrete or coloured textured concrete. Plain concrete or gravel (or any loose aggregate) driveways are not acceptable to the Seller.

## 10.3 **Workmanship**

- All Construction** All works carried out on the Allotment shall be undertaken in a proper and tradesman-like manner.

## 11. **Garage/Parking**

### 11.1 **Garage**

- (a) A minimum of one (1) attached totally enclosed double lock up garage of similar construction and roofing as the dwelling shall be constructed on the Allotment at the same time as the dwelling.
- (b) The garage shall, under no circumstances, be used as residential living accommodation and shall only be used for the storage of motor vehicles and personal items or goods.

### 11.2 **Off-street parking**

- (a) Except for corner Allotments, a minimum of two (2) vehicle parking spaces shall be provided on the Allotment in addition to the requirement of a double lock-up garage. However, such space may be deemed to form part of the vehicular driveway on the Allotment.

### 11.3 **Recreational & Commercial Vehicles, Trailers.**

- (a) Any recreational vehicle, commercial vehicle, trailer or caravan shall be either parked or stored behind the building line of the dwelling and are not permitted to be parked either on the street, footpath or in front of the building line of the dwelling and no vehicle in excess of 6.4 metres in length may be parked stored or

located on the Allotment without express written consent or the agreement of the immediately adjacent neighbour affected.

#### 11.4 **Motor Vehicles**

- (a) Motor vehicles shall be parked either in the double lock-up garage or under built cover or on the motor vehicle parking spaces provided on the Allotment.

### 12. **Trees, Excavation, Embankments, Drainage**

#### 12.1 **Trees**

##### (a) **Removal**

- (i) Any trees other than those that obstruct or hinder the construction of a dwelling shall not be removed from the Allotment without prior written consent of the Seller. Fallen trees, logs and branches shall be removed from the Allotment and shall not be placed either onto a neighbouring Allotment or elsewhere on the Estate.

##### (b) **Protect**

- (i) Trees either on neighbouring Allotments or elsewhere in the Estate shall not be removed, interfered with or damaged.

#### 12.2 **Excavation**

##### (a) **Spoil/Fill**

- (i) Spoil shall not be removed from nor fill placed upon the Allotment except by way of excavation or fill in accordance with the approved working drawings.
- (ii) Excavation/fill shall not be placed either on or removed from neighbouring or other Allotments of the Estate.

##### (b) **Depth**

- (i) Excavation shall NOT be deeper than two (2) metres below the natural ground level of the Allotment at that location except for swimming pools, wells, bores or as may be deemed by the Seller as a special need.

##### (c) **Maximum Height**

- (i) Fill shall not exceed 1200 mm from the natural ground level of the Allotment.

##### (d) **Existing Levels**

- (i) Existing levels shall be maintained at all boundaries and all cut/fill faces kept a minimum of 500 mm clear of each boundary line of the Allotment.

#### 12.3 **Embankments**

##### (a) **Retaining**

- (i) All cut & fill embankments constructed on the Allotment shall be retained as prescribed by the local authority and where a slope is **greater than 1:1.5 or higher than 600 mm** the embankment on the Allotment shall unless otherwise approved by the Seller having regard to safety, the risk of slippage or other damage, be retained prior to the commencement of construction of the dwelling by either coloured concrete sleeper, masonry, concrete or other approved retaining walls. All embankments

must be shown on the working drawings submitted pursuant to clauses 8 and 21 of this building covenant.

(b) **Retaining Wall Installation**

- (i) Retaining walls **within 1.5 metres of the boundary of the Allotment** shall unless otherwise approved by the Seller having regard to safety, the risk of slippage or other damage, be erected before commencement of the construction of the dwelling.

(c) **Drainage**

- (i) Drainage shall be provided with the installation of retaining walls on the Allotment.

12.4 **Drainage**

(a) **Storm Water**

- (i) Storm water shall be discharged to the street channel or drain provided to the Allotment or as required by the local authority or other authority, unless it is captured and retained on site in tanks or other storage.

(b) **Surface Water**

- (i) Surface water shall not be directed onto neighbouring or adjoining Allotments and is to be collected in yard pits and connected to the storm water system.

13. **Fence/s, Gate/s**

13.1 **General**

- (a) Any boundary fence (not forming part of an external wall of the dwelling house) is to be designed and constructed to meet the Ipswich City Council guidelines. A fence may comprise of colourbond panels, powder coated aluminium with concrete footings and rendered masonry block or stone piers. Fences shall be built so to meet the surface ground level and fencing on corner Allotments shall have rendered masonry block or concrete or other footings to provide a neat fit with the lower section of the fence.
- (b) Corner fencing must be designed to provide an attractive appearance and would be anticipated to be of rendered masonry block or powder coated aluminium or Colorbond<sup>®</sup> or composite material.
- (c) Fences constructed forward of the front building alignment must be 50% transparent and a maximum height of 1.2m.

13.2 **Fence/s to Retaining Walls**

- (a) All fences on retaining walls will be erected to local authority standards and to load bearing standards. All fences to be erected on retaining walls (not forming part of an external wall of the dwelling house) will be constructed of Colorbond<sup>®</sup> fencing with concrete footings and not to be higher than local authority specifications.

13.3 **Maximum Height**

- (a) The maximum height of fences must be in compliance with local authority guidelines.

13.4 **Gates**

- (a) Any gates facing the street and not forming part of an external wall of the dwelling house must be constructed of Colorbond<sup>®</sup> or powder coated aluminium or similar and have minimum visual impact on the streetscape.

## **14. Landscaping**

### **14.1 Plants**

- (a) The landscaping of the front yard of the property must be to a standard that reflects the integrity of the streetscape and the quality of the Allotment and must be completed after completion of construction of the dwelling.
- (b) The Buyer is to install 12m<sup>2</sup> of garden forward of the front building alignment and must be shown on the working drawings submitted pursuant to clauses 8 and 21 of this building covenant.
- (c) All retaining walls (including existing retaining walls) require a barrier (ie. Landscape hedge or fence) to be constructed on the higher side of the retaining wall where a retaining wall is greater than 600 mm in height.

### **14.2 Turf**

- (a) After completion of construction of the dwelling, good quality turf shall be laid over the remainder of the Allotment and the area of land between the boundary of the Allotment and the kerb line subject to landscaping requirements.

### **14.3 Maintenance**

- (a) The Buyer shall properly maintain both the landscaped area of the Allotment and the area of land between the boundary of the Allotment and the kerb line.

### **14.4 Erosion Costs & Claims**

- (a) The Buyer indemnifies the Seller against the Seller's costs, including without limitation the costs of reimbursing the local authority, of cleaning, removing or otherwise making good, soil or other substances eroded from the Allotment before all the landscaping works in clauses [14.1](#) and [14.2](#) have been completed.
- (b) The Buyer indemnifies the Seller against any claim, suit, action or demand, arising out of or in relation to soil or other substances eroding from the Allotment, before all the landscaping works in clauses [14.1](#) and [14.2](#) have been completed.

## **15. Signs**

### **15.1 Advertisement/Hoarding signs**

- (a) No advertisement signs (save and except either a "for sale" or "builder's" signs) or hoarding shall be erected on the Allotment without the prior consent of the Seller.

### **15.2 Size/Number**

- (a) No more than one (1) "for sale" sign and one (1) "builder's" sign only shall be erected on the Allotment at any one time, each of which shall be no more than one (1) square metre in surface area.

### **15.3 Design**

- (a) Any sign erected on the Allotment shall be of high quality and design and of professional appearance.

### **15.4 Authority to remove**

- (a) The Buyer hereby authorises the Seller by its servants, agents, employees and subcontractors to enter upon the Allotment at any one time to remove and destroy either any signs or hoardings that are erected on any part of the Allotment without the prior consent of the Seller.

**16. Appurtenances**

**16.1 Antennae, Aerials, etc**

- (a) External TV antennas and other aerials of the dwelling shall be located either within roof space of the dwelling or at the rear of the dwelling below roofline and must not be visible from the street frontage.

**16.2 Satellite Dish**

- (a) Any satellite dish shall be located below the roofline and located at the rear of the dwelling.

**16.3 Solar Panels**

- (a) It is preferred that solar panels be integrated with the roof design and located below the approximate height of the adjacent ridgeline of the dwelling. It is preferred that the storage tank of a solar panel system not be visible from the street frontage of the Allotment and shall be below the height of the adjacent ridge line of the dwelling. The Seller may require a relocation of the proposed installation other than for merely enhancing or preserving or the external appearance of the dwelling. For example a relocation may be required to maximize the available roof space for later installation of other solar panels (whether hot water or photovoltaic), to minimize the impacts of noise or other nuisances on the Allotment or adjacent land.

**16.4 Clotheslines**

- (a) The clotheslines shall be screened or otherwise not visible from the street.

**16.5 Letterboxes**

- (a) A letterbox that is approved by the Seller shall be erected on the Allotment to meet Australia Post requirements.

**16.6 Barbeques**

- (a) Barbeques shall be screened from public view and constructed of materials which harmonize with the exterior walls of the dwelling.

**16.7 Incinerators**

- (a) Incinerators shall not, under any circumstances, be permitted on the Allotment.

**16.8 Air-Conditioners**

- (a) Air-conditioning units (which are not part of a solar hot water system) for the dwelling shall be concealed from public view and shall not be viewable from the street frontage of the property and shall meet noise emission limits or standards set by local or environmental authorities. Air-conditioning units which are part of a solar hot water system are subject to clause [16.3](#) above.

**16.9 Lawn locker/Garden shed**

- (a) Only one (1) lawn locker/garden shed shall be erected on the Allotment, which shall:
- (a) be located at the rear of the dwelling;
  - (b) be screened from the view from the front of the Allotment;
  - (c) be complementary to the dwelling so far as design and external colours are concerned;
  - (d) be constructed of Colorbond<sup>®</sup> materials; masonry or timber materials;



(e) not exceed 3m x 3m x 2.4m in size.

**16.10 Street Number**

(a) A street number shall be erected on or about the dwelling so as to be visible from the street to which the Allotment fronts.

**17. Later Additions and Extensions**

17.1 Later Additions and Extensions to the dwelling and other structures including verandahs, pergolas, lawn locker/garden shed, swimming pool, retaining walls and garden structures shall be subject to the same building covenant requirements as the dwelling and application for approval shall be made to the Seller in the same manner as the original applications.

**18. Temporary Buildings**

18.1 No dwellings/buildings from another site nor caravan or transportable structure shall be brought onto or erected on the Allotment including during the period of construction except in the case of a commercial sanitation unit or foreman's/worker's shed which shall be located at the street front of the Allotment during the period of construction of the dwelling.

## **C. Building Covenant Approval Procedures**

### **19. General**

#### **19.1 Definition**

**The Works** shall include the construction, alteration, renovation or repair of any building (including the dwelling), garage, pergola, garden shed/lawn locker, fence, retaining wall, external sign, hoarding, external floodlighting, external fitting, landscaping, driveways, swimming pool, garden structure and excavation works.

### **20. Building Covenant Approval**

20.1 The following approvals shall be obtained by the Buyer in the following sequence:

Step 1 - Building covenant compliance certificate  
Step 2 - Local authority approval

### **21. Step 1 — Building Covenant Compliance Certificate**

#### **21.1 Submission of Working Drawings/Specifications**

(a) Before the Buyer or his/her builder applies for a building approval from the local authority and prior to any works commencing upon the Allotment, the Buyer shall submit to the Seller for its approval an application for approval showing compliance with all of the necessary requirements identified in the building covenant eg the Plans & Specs, **Working drawings (including elevations and the erosion and sediment control plan as contemplated by clause 2.3(a) of this building covenant obligations) and specification (including the external colour scheme)** of the dwelling etc identical to those which are to be lodged with the local authority relating to the works to be undertaken on the Allotment.

#### **21.2 Final Approval Advice**

(a) The Seller shall either issue a building covenant compliance certificate within twenty-one (21) workings days of the receipt of the completed building covenant application form OR the Buyer may agree on the form to undertake such amendments if any as may be required so as to comply with this building covenant. The Seller shall indicate its approval or otherwise within twenty-one (21) days after having received any required amendments.

### **22. Step 2- Local Authority Approval**

22.1 Upon the Buyer receiving a building covenant compliance certificate from the Seller, or agreeing to comply as set out above, the Buyer shall submit the identical documents at its own cost (amended as may be required) to the local authority and obtain the appropriate building approval for the works to be undertaken on the Allotment.

## Obligations

### 1. Construction Obligations

#### 1.1 Keep Clean & Tidy

- (a) The Buyer shall keep the Allotment in a neat and tidy condition and free of weeds and rubbish before, during and after the undertaking of the Works. Excavation material, trees, rubbish, building waste and other substances shall be deposited in an industrial style waste bin/s or cage/s which is/are to be provided, or caused to be provided by the Buyer to the Allotment during the carrying out of the Works and not onto neighbouring Allotments of the Estate.

#### 1.2 Retention of Embankments

- (a) Any retaining walls shall be erected on the Allotment during or immediately after any relevant excavation works have been completed and prior to the commencement of construction of the dwelling and so as not to cause damage to neighbouring properties unless otherwise permitted by the Seller under clause [12.3](#).

#### 1.3 Improvements

- (a) All works on the Allotment shall be undertaken only in accordance with working drawings and specifications of the dwelling duly approved in writing by either the Seller or the Seller's agent.

#### 1.4 Construction Time

- (a) The construction of the dwelling (including the lock-up garage, driveways, letterbox, landscaping, off street parking and fences etc) shall proceed as promptly as practicable, taking into account the size and complexity of the building and building industry norms and be finalised within twelve (12) months from commencement.

#### 1.5 Continuity of Construction

- (a) Works on the Allotment, once commenced, shall not be left incomplete or without substantial work being carried out for a period longer than one (1) month.

#### 1.6 Allotment Access During Construction

- (a) The Buyer shall not, during the course of construction of the dwelling, use any adjoining Allotment or pedestrian walkways as vehicular access to the Allotment unless authorised by the affected owner/s.

### 2. Environmental Obligations

#### 2.1 Environmental Protection Act

- (a) The Buyer shall comply with the provision of the Environmental Protection Act so far as it relates to his/her/their obligations in respect of the Allotment both prior, during and subsequent to the construction of any works including those related to the construction of the dwelling.

#### 2.2 Erosion and Sediment Management

- (a) The Buyer shall, whilst undertaking any works including the construction of the dwelling on the Allotment, erect, keep and maintain such devices as are necessary to prohibit the escape of silt, soil, rubbish, water, paint, oils, debris etc from the Allotment.

### 2.3 **Erosion and Sediment Control Management Plan**

- (a) The Buyer shall, at the same time as he/she/they submit the application referred to in clause [21.1 \(a\)](#), submit to the Seller for its approval, an erosion and sediment control management plan for the Allotment.

### 2.4 **No waiver**

- (a) Performance of its obligations under this clause [2.3](#) does not relieve the Buyer of its obligations under clause [14.4](#), nor does approval of an erosion and sediment control plan under clause [2.3 \(a\)](#) amount to a waiver of the Sellers rights under clause [14.4](#).

## 3. **Care and Maintenance Obligations**

### 3.1 **Normal Maintenance**

- (a) From the date of purchase of the Allotment, until the completion of all Works, the Buyer shall:
- (a) Maintain the appearance of the Allotment (including the area of land between the boundary of the Allotment and the kerb line) by slashing/mowing as required to maintain a neat and tidy appearance.
  - (b) Maintain the Allotment in good, tidy appearance and free of rubbish or garbage, including by attending on site personally or via a contractor, employee or agent at least as frequently as the Allotment must be mown / slashed.
  - (c) Maintain the appearance of the Allotment by not dumping, storing or leaving on the Allotment any spoil, building or other materials other than in the course of construction.

### 3.2 **Obligatory Slashing, Maintaining & Clearing**

- (a) Should the Seller notify the Buyer that slashing, maintaining, cleaning or clearing of the Allotment is required in order to maintain a neat and tidy presentation of the Allotment and the Estate, or to render the Allotment less hazardous or prone to fire, infestation or vandalism, the Buyer shall carry out the works within 14 days.
- (b) If the Buyer fails to comply with the request to slash, maintain, clean or clear the Allotment, the Seller may employ an independent contractor to carry out the slashing, maintaining, cleaning or clearing and the Buyer shall pay to the Seller the costs incurred by the Seller in relation thereto upon demand.

### 3.3 **Continuing Maintenance**

- (a) After completion of any Works, the Buyer shall maintain the landscaping and turfed area within the Allotment and that part of the landscaping which extends from the boundary of the Allotment to the kerb line.

## 4. **General Obligations**

### 4.1 **Animals**

- (a) The Buyer shall not keep or raise or breed any livestock or poultry on the Allotment.

### 4.2 **Dogs and Cats**

- (a) The Buyer shall not keep more than two (2) prescribed animals on the Allotment. For the purpose of this clause "prescribed animals" means cats and dogs.

**4.3 Heavy Motor Vehicles**

- (a) Trucks, tractors, prime movers, backhoes, caravans etc whether owned or in the care of the Buyer shall not, under any circumstances, be either parked or stored on the Estate or the Allotment at any time whatsoever unless such trucks, tractors, prime movers or backhoes are being used in respect of the Works.

**4.4 Trail Bikes**

- (a) Trails bikes are not permitted to be used on the Estate.

**4.5 Repair/Restoration of Motor Vehicles**

- (a) A motor vehicle, truck or caravan or other vehicle or trailer shall not be parked either on the street or the driveway or the Allotment for the purpose of being repaired or restored or simply stored. The term 'stored' means parked other than in course of regularly coming to and going from the property. Any repair or restoration of a motor vehicle, truck or caravan carried out on the Allotment shall be undertaken in the lock-up garage of the dwelling.

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Seller

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Buyer