



SOLICITORS

BUILDING COVENANTS

A Building Covenant is a condition placed on the purchaser of a vacant block of land which restricts the style, size or type of building that he/she may erect.

When a subdivision is created the developer may wish to ensure that the land is developed within a reasonable time and that the buildings erected on the land are erected to certain uniform standards. This maintains the value of the remaining blocks of land. It also has the added advantage of creating a community standard for the development. These standards will vary from place to place (and maybe even within various groups or types of allotments within a subdivision). The added advantage is obvious in that you are assured of a development which will conform to a minimum standard thus, preserving the value of your own investment.

Whilst the wording of these various covenants is a matter of legal interpretation, the effect of these covenants is very much merely a matter of commerciality. To this end, you should consider the restrictive covenants applicable to your property and read these carefully to ensure that you are prepared to be bound by the same.

If you have any questions with regards to the effect of these covenants, please do not hesitate to contact us.

The types of covenants that are usually covered in subdivisions fall into various categories.

Size

Restrictions are placed upon the size of the ultimate house. Measurement of the sizes normally include attached garages although you should carefully read exactly what is included in your particular case, and where measurements are to be taken from, (i.e. internal measurements or from external walls).

Building Materials

These covenants are commonly referred to as "brick" covenants, as the most common of these covenants require that the homes are to be constructed in brick or brick veneer. The materials grouping of covenants will usually also cover such restrictions as roofing materials, demolition materials, and may go as far as covering fencing materials.

Temporary constructions

These usually specify that no temporary constructions are allowed whilst your main dwelling is being constructed. This prevents people living in mobile homes or caravans on site and spending years to build their own home thus, depreciating the value of surrounding properties. Often there are restrictions placed upon carports, detached garages and garden sheds or other outbuildings.

Time

Time is usually raised in two aspects:-

(a) Time within which construction must commence, to the time within which construction must be completed.

(b) Sometimes, (although not often), a time limit is placed upon the time in which your landscaping is to be completed and effected.

Vegetation Preservation

Some subdivisions will not allow removal of vegetation other than that which is necessarily required for the construction of the home. This should be carefully considered when considering the floor plan and placing of your home on the block. You should be aware that similar restrictions are sometimes placed by the City Council.

Fencing Restrictions

Fencing restrictions can include the method or type of construction, the size of the fence and the areas which are to be fenced. Sometimes the areas which are to be fenced may be listed by exclusion, such as "there shall be no fence from the front building line to the front of the property".

Sale

Sometimes in order to attempt to try and maintain a standard price for blocks of land, a restriction is placed upon you, in that the sale of any block of land must be first placed with the developer. It is in this way that they will ensure that no resales are being placed on the market in competition to any new blocks which are being released.

Approval of Plans

To ensure that the house fits in with the general demeanour of the subdivisions, there is often provision that your plans must be approved by the developer prior to commencement of work.

It is essential when purchasing a block of land where there are covenants for the approval of plans to ensure that there is a clause in your contract of land purchase, stating that it is subject to the developer approving your plans. This will mean that if your "dream home" is not to their liking that you will not be "stuck" with the block of land. Obviously, this can only be done if you are commencing development immediately and have plans already prepared. If you have any doubts or questions concerning this special requirement, please do not hesitate to contact us.

General

The information contained above is of a general nature. Should you have more specific enquiries then you should seek legal advice and not rely solely on this information.