

SCHEDULE 3

FORM OF LAND COVENANTS

1.0 PURPOSE

- 1.1 The purpose of these covenants is to protect the market and aesthetic value of the Dominant Lots, their commercial and residential amenity values, the privacy, peace, and security of the owners of the Dominant Lots, and the quality of the environment touching and concerning the Dominant Lots for the benefit of the Dominant Lots, Pegasus Town, and its associated community in general.
- 1.2 It is intended that this covenant shall be registered against Certificates of Title to the Dominant and Servient Lots, pursuant to Section 307 of the Property Law Act 2007.
- 1.3 For the purpose of this covenant:

The Land Covenants set out below are created for the benefit of the land in Certificates of Title *[to be inserted]* to *[to be inserted]* inclusive (the "Dominant Lots") over the land in Certificates of Title *[to be inserted]* to *[to be inserted]* inclusive (the "Servient Lots") to the intent that the Servient Lots shall be bound by the provisions stipulations and restrictions set out in this instrument and so that the owners and occupiers for the time being of the Dominant Lots including the Successors in title may enjoy the benefits of such covenants and enforce the observance of such provisions stipulations and restrictions as the covenants provide for their benefit and in relation to each owner of the Servient Lots including their successors in title from time to time. Such covenants are created so as to bind the Servient Lots for the benefit of the Dominant Lots in respect of the matters set out in this instrument so that the covenants in this instrument run with the Servient Lots for the benefit of the Dominant Lots.

If there shall at anytime be more than one (1) owner of the Servient Lot, this covenant shall be binding upon each and every owner jointly and severally.

2.0 DEFINITIONS

In the following covenants:

- (a) Headings are for ease of reference only and do not form part of any covenant nor affect the construction of any covenant.
- (b) Words imputing the singular include the plural and vice versa.

"**Approved**" means approved by Pegasus Town either in accordance with clause 4.1 or as may otherwise be required by any of the covenants.

"**Building**" comprises a building as defined by the Building Act 2004.

"**Dwellinghouse**" means and includes a residential dwelling house, or family residence.

"Landscape Feature" means any visible structural or landscape design or enhancement feature or utility to be provided on any Lot.

"Lot" means any Lot that is subject to these covenants including any Lot created by the subdivision of any Lot.

"Lot Owner" means the owner of any Lot.

"Pegasus Pattern Book" means the booklet of materials compiled by the Pegasus Town, containing information to guide the design of the Dwellinghouse for each Lot, including (but not limited to) requirements for building form, materials, colour and landscaping, as may be varied from time to time.

"Pegasus Town" means Todd Property Pegasus Town Limited and any successor party or organisation nominated by it or by any successor party or organisation to deal with applications required for approvals by Pegasus Town under any of these covenants.

"Servient Lots" and **"Dominant Lots"** includes any Lots created by Subdivision.

"Subdivision" means the creation of any new and separate Lot in respect of the Land, whether in fee simple, stratum estate, leasehold estate or otherwise for which a Certificate of Title can be obtained by deposit of a Survey Plan that is approved by Pegasus Town.

3.0 COVENANTS

Building Construction and Lot Development

- 3.1 No more than one (1) Dwellinghouse may be constructed on any Lot.
- 3.2 All Buildings to be used as a Dwellinghouse must have a ground floor area of not less than 93m² (inclusive of any garage under the same roof structure). ***[Drafting note: This clause will not be included in the Land Covenants for high density residential housing allotments.]***
- 3.3 No re-locatable Buildings may be brought onto any Lot nor any other previously used Building be transported to and be relocated or re-erected on any Lot.
- 3.4 All Buildings must be constructed on-site from new or high quality recycled materials.
- 3.5 Exterior cladding for all Buildings on any Lot (except for the cladding of soffits or gable ends) shall be of the following materials:
 - (a) Brick, or
 - (b) Natural stone, or
 - (c) River rock, or
 - (d) Textured plaster over brick, or polystyrene or other suitable sub-base for plaster, or
 - (e) Stained or painted timber weather-board, wooden shingles, timber board & batten, or
 - (f) Surface coated concrete block or concrete including concrete panels, or

- (g) Solid plaster or glazing, or
 - (h) Such other materials as may be approved by Pegasus Town.
- 3.6 All roofing material on any Building shall be either:
- (a) Tiles, (including clay, ceramic, concrete, decramastic, pre-coated or pressed steel), or
 - (b) Steel (comprising pre-painted, long-run pressed or rolled steel), or
 - (c) Shingles, or
 - (d) Slate, or
 - (e) Membrane roofing, or
 - (f) Such other roofing material as may be approved by Pegasus Town.
- 3.7 No reflective or visually obtrusive roof, wall or exterior materials, colours not approved by Pegasus Town, or mirror glass may be used for any Building.
- 3.8 No exterior cladding, no roofing material, no guttering or down pipe material comprising unpainted and/or exposed zinc coated products may be used on any Building.
- 3.9 No Buildings shall be erected on any Lot using concrete or treated wooden piles without providing a solid and durable skirting board or other enclosure around the exterior of the Building(s) from ground height to the underside of the wall cladding.
- 3.10 No garages or subsidiary Buildings shall be erected on any Lot except in conjunction with or following construction of the main Building and all such Buildings shall be constructed with permanent materials comprising surface coated concrete, timber, stone or other permanent materials in character with the main Building on each Lot.
- 3.11 A Dwellinghouse must be constructed on the Lot in compliance with these Covenants, the Pegasus Town Construction Rules, the Pegasus Pattern Book and all relevant regulatory requirements and in accordance with the Building plans approved in accordance with Clause 4. Construction of the Dwellinghouse must commence within two (2) years of settlement of purchase by the Lot Owner. The Lot Owner acknowledges that Pegasus Town gives no warranty or undertaking that similar conditions or requirements will be imposed in respect of other Lots within Pegasus Town.
- 3.12 No Lot (or any part of the Lot) may be sold or otherwise disposed of until a Dwellinghouse has been constructed on the Lot in compliance with Clause 3.11. In exceptional circumstances Pegasus Town may grant a dispensation to this requirement. Any dispensation must be confirmed in writing by an authorised representative of Pegasus Town. If Pegasus Town consents to the sale or transfer of the Lot to a third party prior to the construction of a Dwellinghouse on the Lot on-sale purchasers of the Lot will be bound by this covenant and Clause 3.11.
- 3.13 All construction works required to complete a Building on any Lot including any required painting or staining of exterior surfaces shall be completed within a period of fifteen (15) months from the date of commencement of construction work, and earthworks and landscaping works associated with such development (including lawns,

drives, paths and fencing) similarly shall be completed within three (3) months of Building completion.

- 3.14 No Building on any Lot may be occupied as a residence in any way until:
- (a) The Code Compliance Certificate(s) has been issued by the Waimakariri District Council; and
 - (b) The Buildings have been completed in accordance with all the terms of these Covenants; and
 - (c) All exterior work, decoration and landscaping is completed; and
 - (d) All access ways, driveways, paths, fences and other Landscape Features are completed in accordance with these Covenants; and
 - (e) All unpaved areas viewable from the street are properly grassed and/or landscaped according to the approved plans.
- 3.15 No open fireplace or dry wood or pellet or similar solid fuel burner (except for clean air approved fires or burners complying with relevant and current environmental standards) shall be installed in any Building.
- 3.16 Air conditioning units must not be set into or protrude from the Building(s), and shall be properly screened and noise proofed to ensure they are not a nuisance to neighbours.
- 3.17 No discharge from a Lot of a soluble or insoluble nature that is detrimental to water quality shall be permitted to discharge into the waste water or storm water systems. The Lot owner is responsible for any remedial action undertaken for any breach thereof. The installation of in-sink waste disposal units is prohibited.
- 3.18 Portable gas cylinders or bottles may not be used on any Lot or in any Building for any permanent cooking, water heating or domestic heating purposes (except gas bottles for outdoor and barbecue use) unless a reticulated community gas supply is unavailable to the Lot.
- 3.19 Diesel, petrol, oil or gas tanks which have a capacity of over 100 litres are prohibited on any Lot or within any Building unless approved by Pegasus Town.
- 3.20 Approval of Pegasus Town to driveways, driveway crossings and entranceway locations and plans and specifications must first be obtained prior to construction.
- 3.21 Lots that have rear vehicular access available from a lane or right of way may not have vehicular access to the Lot from the street frontage unless approved by Pegasus Town. Parking is prohibited on any access lane or right of way unless approved by Pegasus Town.
- 3.22 No use may be made of adjacent land, footpaths or recreation areas abutting any Lot for access (other than the access approved by Pegasus Town) or for storing or dumping of rubbish or other material. Servient Lot Owners shall reinstate, replace and be responsible for all costs arising from damage to the landscaping, roads, footpaths, kerbing, berms, concrete or other structures arising directly or indirectly from any access or use by the Lot Owner (including their contractors). Prior to the commencement of construction of any Building on any Lot the Lot Owner shall

construct a suitable ramp to the satisfaction of Pegasus Town across the berm and footpath to protect these areas from damage by vehicular traffic accessing the Lot during construction works.

- 3.23 No Building shall be erected, altered, placed or permitted to remain on any Lot other than Buildings designed for residential use and associated Buildings and outbuildings. Pegasus Town and its designated representatives and/or builders approved by Pegasus Town may use residential Buildings as model homes or offices, provided such use is in furtherance of the primary purpose of construction and sale of Lots and dwellings within the Pegasus Town development.
- 3.24 No Lot Owner shall oppose, object to, frustrate, or take any action, or encourage or cause others to oppose, object to, frustrate or take any action that might in any way prevent or hinder Pegasus Town from progressing or completing the present Pegasus Town development or the adjoining Mapleham development of Pegasus Town or any future development of Pegasus Town. Such covenant extends to and includes (without limitation) development planning, zone changes, resource consents for land uses and subdivisions, Consent Authority or Environment Court applications, Territorial Authority Building Consent matters, or any other necessary consent process involving Pegasus Town. The benefit of this covenant also applies to Pegasus Town for any adjoining or neighbouring properties now or hereafter owned by Pegasus Town.

Landscape Features

- 3.25 Construction of any Landscape Features on any Lot shall not be commenced until the plans and specifications have been approved by Pegasus Town.
- 3.26 No Landscape Feature may exceed a height of 2 metres above the original subdivision ground level of a Lot without the express written approval of Pegasus Town.
- 3.27 Clotheslines and letterboxes must be unobtrusive and of good quality in terms of design and location. The positioning of any clothesline shall be on the rear half of each Lot with appropriate screening to ensure it will not be highly visible from the street. The positioning of any letterbox shall be adjacent to but not on the road reserve.
- 3.28 Approval of Pegasus Town to the attachments to any Buildings or structures on any Lot (including television antenna, solar hot water panels, satellite dish, mast, garden statues, fountains or any other exterior ornamental decoration or Landscape Feature) must first be obtained prior to installation.
- 3.29 Approval of Pegasus Town to the location of and construction of swimming pools (including fencing and screening on any Lot), must be obtained prior to installation.

Building & Lot Maintenance

- 3.30 No Lot Owner shall display or permit to be displayed on any Lot or Building any advertisement, sign or hoarding (except for compulsory statutory signage, real estate signage pending sale and builder's signage during construction and pending sale) except as approved by Pegasus Town and complying with any relevant legal requirements.

- 3.31 No livestock, poultry, reptiles or animals of any kind or size shall be raised, bred or kept on any Lot or in any Building; provided, however, that up to two dogs, two cats, or other common domesticated household pets that are not dangerous or annoying may be raised and kept, provided such pets are not kept, bred or maintained for any commercial purposes. Such permitted pets shall be kept on the owner's Lot and if a dog it shall not be allowed off the owner's Lot except under controlled supervision. Any dog which in whole or in part, resembles any of the pit bull terrier, the Japanese tosa, the dogo argentino or the fila brasileiro breeds and any other potentially aggressive or noisy breed of animal is expressly prohibited. No permitted pet shall be allowed to make noise in a manner or of such volume as to annoy or disturb other Lot Owners. Any Lot Owner who allows or keeps a pet on their Lot is responsible for any loss or liability of any kind arising from the keeping of such pet. The keeping of pets by a Lot Owner shall be subject to any other restrictions required by Pegasus Town from time to time in the interests of maintaining a good residential environment.
- 3.32 Buildings and Landscape Features must be maintained and not be allowed to deteriorate to a point where the standard of presentation is either:
- (a) Less than that represented in the rest of the Pegasus Town developed residential area, or
 - (b) Inadequate, taking into account fair wear and tear and the original condition at the time that the residential Building on the Lot was occupied as a residence and the condition of its neighbourhood properties.
- 3.33 Open areas of Lots must otherwise be kept and maintained in a neat and tidy condition at all times, including the grounds, lawns, gardens and any Local Authority owned road frontage to each of the Servient Lots. Grass and other ground cover must not exceed a height of 150 mm.
- 3.34 Lot Owners must not alter the original subdivision contour and levels of the Lots without prior approval from Pegasus Town.
- 3.35 No tree shrub or other vegetation shall:
- (a) protrude beyond three metres in height within two metres of any Lot boundary
 - (b) protrude beyond five metres in height within the area of any Lot between two metres and five metres on the easternmost and southernmost boundary of any Lot.
 - (c) protrude beyond an absolute height of 20 metres elsewhere on the Lot.

"Height" is to be taken from the original subdivision ground level of a Lot.

To ensure reasonable amenity to each Lot if any tree shrub or other vegetation on any Lot is very substantially shading or very materially affecting the outlook or view from any neighbouring Lot or is creating any significant nuisance and that Lot Owner neglects or refuses for a period of thirty (30) days following notice in writing to them from the affected Lot Owner(s) requesting reduction to the height and / or the canopy area or remedying of the nuisance involved with such tree, shrub or other vegetation, then the parties involved shall be bound to resolve the same by arbitration in accordance with clause 5 (Dispute Resolution).

Fencing Provisions

- 3.36 The Lot Owner shall be bound by a Fencing Covenant within the meaning of section 2 of the Fencing Act 1978 in that neither Pegasus Town nor the Waimakariri District Council shall be liable to pay for or contribute towards the cost of the construction or maintenance of any fence between any Lot and any adjoining land owned by Pegasus Town or the Waimakariri District Council.
- 3.37 A Lot Owner who takes title to a Lot having a boundary fence already constructed on a Lot boundary which has been paid for in full by an adjoining Lot Owner(s) shall be liable to reimburse each such Lot Owner for one half of the actual cost of that boundary fence (if not already reimbursed by any other party). Such cost shall not exceed \$80.00 (plus GST) per linear metre for the fence. The cost shall be Consumer Price Indexed annually effective from 1st January 2008.
- 3.38 All fences on the side and rear Lot boundaries shall be constructed and maintained to a standard approved by Pegasus Town and in accordance with the Pegasus Pattern Book, and:
- (a) Shall not exceed permitted heights as prescribed by the Pegasus Pattern Book.
 - (b) Side fences and rear fences must be erected prior to any Building construction.
 - (c) There shall be no fencing across the street frontage of any Lot unless approved by Pegasus Town.
 - (d) Side fences are to be 600mm high within 2 metres of the front boundary with a 45 degree graduation thereafter of up to 1.20 metres to the front edge of the Dwellinghouse. All fencing thereafter shall be of a maximum height of 1.80 metres.
 - (e) All fencing must comply with such design criteria and materials as may be specified or required by the Pegasus Pattern Book.
 - (f) For all corner lots the Pegasus Pattern Book has quite specific requirements in respect of fencing which must be adhered to.
 - (g) Must comply with the locations, design criteria, and materials specified in the Pegasus Pattern Book.
 - (h) Must be stained, painted or otherwise finished before the Dwellinghouse or any Building construction is commenced.
 - (i) Must be contiguous with neighbouring fencing.
 - (j) Any Lots which bound a park or recreation area may be fenced with either a wood fence of up to 1.2 metres in height or an open metal fence of up to 1.8 metres in height.
- 3.39 Fencing requirements may be varied by Pegasus Town when desirable to ensure a high standard of appearance or when fencing is undesirable or unnecessary in the view of Pegasus Town.

Land Use Restrictions

- 3.40 No Lot shall be used for any form of temporary residential purposes unless approved by Pegasus Town either by the construction of temporary Buildings or by the placement of caravans, modular homes, mobile homes, motor homes, house trailers, buses, tractors, huts, tents and/or vehicles able to be used for human habitation except for a builder's

shed at the commencement of, and for the duration of construction, of any dwelling being erected on the Lot.

- 3.41 Lot Owners must not use any Lot for any primary purpose not permitted by the planning provisions under any regulatory land use controls applicable from time to time or by any resource consent or other regulatory approval that may need to be obtained.
- 3.42 No Lot shall be sold, leased, transferred, assigned or otherwise disposed of to any Governmental agency or Territorial Authority for the purposes of public or institutional housing without the prior approval of Pegasus Town.
- 3.43 No inflammable, explosive or noxious materials are to be stored or used on any Lot or in any Building. The Lot Owner must not allow any offensive activity to be conducted or permitted to exist upon any Lot, or in any Building, nor shall anything be done or permitted to exist on any Lot or in any Building that may be or may become an annoyance or private or public nuisance. An annoyance or private or public nuisance includes excessive noise or offensive smells.
- 3.44 No Lot, driveway or common area shall be used for the purpose of long term vehicle parking, repair or maintenance. No unregistered, non licensed or expired license or inoperable vehicles of any kind shall be permitted to remain on any Lot (unless parked inside a garage).
- 3.45 No recreational or commercial vehicles boats or trailers are to be regularly located on the road or in front of the Building line of the main Building constructed or to be constructed on the Lot.
- 3.46 No Lot may be further subdivided nor shall any further easements be agreed to, granted or registered on any Lot, including rights of way unless approved by Pegasus Town.

Services (Pegasus Town & Territorial Authority Regulatory Requirements)

- 3.47 The sediment collection chamber and soak pit components of the stormwater treatment system of Pegasus Town development located on any Lot ("the stormwater components") may not be removed or be modified in any way such that the performance of the stormwater system is adversely affected.
- 3.48 Each Lot Owner shall at all times authorise Pegasus Town and the relevant local authority or its agent to access his/her Lot for the purposes of inspecting the functioning of the stormwater components located on that Lot.
- 3.49 Each Lot Owner shall at the Lot Owners' own expense comply with any directive issued by Pegasus Town or the relevant local authority or its agent as to maintenance or repair of the stormwater components required to ensure the efficient and effective performance of the stormwater system of the Pegasus Town development.
- 3.50 Each Lot Owner shall create and form a single metalled vehicle crossing to his/her Lot prior to commencement of any construction activities on the Lot and shall ensure that all vehicle access to the Lot is via this crossing to prevent damage to the street swale. Such crossing shall be in the same location as any permanent crossing point. In the

event of damage to the street swale from construction activity, the Lot Owner shall be responsible for repair of the same.

- 3.51 Each Lot Owner shall create and form any permanent vehicle crossing point to his/her Lot in a manner consistent with the effective functioning of the stormwater system. This requires any access driveway to be formed with a low point, 50mm below the adjacent road channel level, at the mid point of the street swale.
- 3.52 On Lots **[to be inserted]** Pegasus Town has or will on behalf of the Lot Owner construct a suitable on-site soak pit on each residential lot. As part of Pegasus Town's approval of the Building plans the Lot Owner shall pay to Pegasus Town the cost of constructing the on-site soak pit plus GST (if not paid on settlement of the purchase of the Lot from Pegasus Town). Pegasus Town will confirm the actual cost of the on-site soak pit prior to approval of Building plans and advise such cost of the on-site soak pit to the Lot Owner. Each Lot Owner of Lots [1139-1172 (inclusive) and 1211-1213 (inclusive)] must construct and maintain at their own cost a suitable onsite stormwater soak pit. The Lot Owner will provide to Pegasus Town reasonable details of the soak pit as part of the Building plans submitted to Pegasus Town for approval.

Enforcement

- 3.53 Pegasus Town may enforce these covenants in the same manner as a Lot Owner and in particular if a Lot Owner does not comply with any covenant Pegasus Town may request such owner in writing to remedy such non compliance within a specified time (not to be less than fourteen (14) days from the date of such request). At the end of the specified time and if the Lot Owner remains in default in remedying such non-compliance Pegasus Town may employ a suitably qualified or experienced person to enter such Lot and carry out work necessary to achieve compliance with the covenant(s) involved and may recover as a debt due from the defaulting Lot Owner all costs incurred by Pegasus Town in such remedial work.
- 3.54 Pegasus Town will use its best endeavours to ensure observance of these covenants but shall not have any legal responsibility or liability for any lack of enforcement or enforceability or application of any of these Covenants. The Lot Owners agree to keep Pegasus Town fully indemnified from any claim, liability, loss or action arising against it or its agents in respect of these covenants having regard to their intent to provide for the interests of Lot Owners inter se and their individual obligations of observance and rights of enforcement of the covenants.

4.0 APPROVAL PROCESS FOR BUILDINGS AND SITE DEVELOPMENT

- 4.1 Prior to submitting Building plans and Building consent applications to any Consent Authority for any necessary approvals and prior to the commencement of Building construction the Lot Owner of each Lot shall obtain the written approval of Pegasus Town (such approval to be considered in an impartial and reasonable manner) in respect of:
- (a) The proposed Building's appearance, floor plan and all exterior finishes, and design consistency with neighbouring Buildings;
 - (b) Location for the Buildings to be constructed on the Lot;

- (c) A Landscape Plan for the Lot;
- (d) The Building Consent application proposed to be made to the Building Consent Authority;
- (e) Proposed access from streets or rights of way and off street parking;
- (f) Consistency with master planning objectives of Pegasus Town.

Pegasus Town undertakes to use its best endeavours to respond to each application so submitted no later than fourteen (14) working days after receipt of items (a) to (e) above.

- 4.2 Each Lot Owner agrees to comply with the Pegasus Town Construction Rules, the Pegasus Pattern Book requirements, and approvals. It is the responsibility of each Lot Owner to ensure that builders, subcontractors, workmen and suppliers fully comply with these requirements and covenants.
- 4.3 Pegasus Town may delegate such approval process to a nominated and suitably qualified party.

5.0 DISPUTE RESOLUTION

- 5.1 Should any dispute arise concerning any aspects of these covenants that cannot be resolved by agreement between the parties involved the Lot Owners are bound to resolve the same by arbitration in accordance with the Arbitration Act 1996 ("the Act"), and the following provisions shall apply:
 - (a) There shall be a single arbitrator who shall be appointed by the President for the time being of the New Zealand Law Society (or any successor organisation) as a sole arbitrator;
 - (b) The arbitrator shall determine all questions in issue between the parties including questions as to the scope of the dispute and as to procedure;
 - (c) The arbitrator's award shall be binding on all parties to the dispute;
 - (d) Any party to a dispute may initiate arbitration in accordance with the provisions of the Act.