

View Instrument Details



Instrument No 12853885.8
Status Registered
Date & Time Lodged 27 October 2023 18:10
Lodged By MacFarlane, Olivia Kate
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
1120187	Canterbury
1120188	Canterbury
1120189	Canterbury
1120190	Canterbury
1120191	Canterbury
1120192	Canterbury
1120193	Canterbury
1120194	Canterbury
1120195	Canterbury
1120196	Canterbury

Annexure Schedule Contains 7 Pages.

Covenantor Certifications

I certify that I have the authority to act for the Covenantor and that the party has the legal capacity to authorise me to lodge this instrument ☒

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Olivia Kate MacFarlane as Covenantor Representative on 27/10/2023 06:10 PM

Covenantee Certifications

I certify that I have the authority to act for the Covenantee and that the party has the legal capacity to authorise me to lodge this instrument ☒

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument ☒

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply ☒

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period ☒

Signature

Signed by Olivia Kate MacFarlane as Covenantee Representative on 27/10/2023 06:10 PM

*** End of Report ***

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Form 26

Covenant Instrument to note land covenant

(Section 116(1)(a) & (b) Land Transfer Act 2017)

Covenantor

FRASER JAMES GRAEME HENDERSON AND FRASER HENDERSON TRUSTEES LIMITED

Covenantee

FRASER JAMES GRAEME HENDERSON AND FRASER HENDERSON TRUSTEES LIMITED

Grant of Covenant

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covenantee** (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Schedule A required

Continue in additional Annexure Schedule, if

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land Covenants	DP 588703	Lots 1-10 (both inclusive) on DP 588703 (1120187 – 1120196) (both inclusive)	Lots 1-10 (both inclusive) on DP 588703 (1120187 - 1120196) (both inclusive)

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Covenant rights and powers (Including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required.

Continue in additional Annexure Schedule if required.

The provisions applying to the specified covenants are those set out in:

~~[Memorandum number _____, registered under section 209 of the Land Transfer Act 2017].~~

Annexure Schedule 1.

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Annexure Schedule 1

Page 1 of 5 Pages

Insert instrument type

Land Covenant

1 Interpretation

For the purpose of this Land Covenant:

"**Covenantor**" means the Developer and the registered owner of any Lot;

"**Developer**" mean Fraser James Graeme Henderson or his nominee;

"**Development**" means the residential development undertaken by the Developer being the subdivision depicted on Deposited Plan 588703;

"**Dwelling**" means any dwelling, buildings or other structure situated on a Lot;

"**Improvements**" includes any Dwelling to be erected on the Lot, driveways, concrete works, pathways and landscaping;

"**Lots**" means Lots 1-10 on Deposited Plan 588703 and "**Lot**" means any one of them; and

"**Owner**" means those are the registered owners for the time being of the Lots described in Schedule A of this instrument.

2 Land Covenants

2.1 The Covenantor and the Covenantee wish to protect the visual concept and integrated appearance of the Subdivision as a whole. To achieve this, the Covenantor hereby covenants with the Covenantee as set out below and hereby requests that such Covenants be noted against all the titles having the benefit and those having the burden of these Covenants.

2.2 These Covenants shall:

- (a) Be for the burden and benefit of Lots 1 to 10 (both inclusive) on Deposited Plan 588703; and
- (b) Shall continue to run for 12 years from the date of registration of this instrument for the benefit of all registered owners of Lots 1 to 10 (both inclusive) on Deposited Plan 588703 (inclusive) except where any covenant is expressly limited as to a shorter duration in this instrument.

3 Design Covenants

3.1 No Improvements shall be commenced or erected, or permitted to be commenced or erected on any Lot by any Owner except where:

- (a) The final building plans (as intended to be submitted to the Territorial Authority for a building consent) including full details of all exterior finishes and colours, the location of the proposed Dwelling on the Lot, and details of fencing, driveways and front yard landscaping for the Improvements have first been approved (in writing) by the Developer in all respects before a building consent is applied for and/or any site work commences; and
- (b) The Improvements are constructed, erected and situated in accordance with the plans first approved by the Developer in writing or in such other manner as the Developer shall first approve in writing.

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Annexure Schedule A

Page 2 of 5 Pages

Insert instrument type

Land Covenant

- (c) Landscaping to be completed with native species, the height of which, must not impede the view or cause detrimental impact/shading of other lots. Each individual site landscape plan and planting schedule to be approved by the Developer prior to any construction proceeding.
- 3.2 Any obligation imposed by clause 3.1(a) and 3.1(b) shall come to an end on the issuing of the Code Compliance Certificate from the relevant Territorial Authority issued for the Dwelling on the relevant Lot.
- 3.3 The Owner shall not, without the prior written approval of the Developer:
 - (a) Erect or allow any residential dwelling on the Lot other than a single new dwelling capable of being used by one family unit having a floor area of not less than 140m² (excluding garage);
 - (b) Permit or allow onto any Lot any pre-built, transportable or relocatable house or existing house which has been previously lived in; or
 - (c) Use or permit to be used on the Lot any second-hand building or fencing material of any kind.
- 3.4 The Owner shall not:
 - (a) Erect or allow on the Lot any Improvements which are not complimentary to the Development with the intention being that such Improvements must merge with the environment of the Development;
 - (b) Make any additions or alterations to any existing Dwelling on the Lot that are inconsistent in finish, quality and appearance with the first Dwelling constructed on the Lot;
 - (c) Obtain access to the Lot over any area not allocated for vehicle access; or
 - (d) Erect or permit to be erected on the Lot:
 - (i) A long run iron, panel steel, un-textured flat cement or plywood fence;
 - (ii) A front yard fence and/or gate which exceeds 1.2 metres in height above development ground level;
 - (iii) Any gateposts or columns adjacent to any part of the vehicle access to any Lot which exceeds 1.2 metres in height above development ground level;
 - (iv) Any aerials, satellite dishes or other communication receivers of a commercial nature; or
 - (v) Any Improvement which has a roofing material, guttering, downpipe or exterior cladding material comprising unpainted and/or exposed zinc coated products.

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Annexure Schedule A

Page 3 of 5 Pages

Insert instrument type

Land Covenant

4 Land Use

4.1 The Owner shall not:

- (a) Subdivide the Lot or apply for a subdivision consent of any kind whatsoever within 10 years of date of registration of this instrument without the express consent of the Developer, the exception being for Lot 5 and Lot 6 as follows:
 - (i) The owner of Lot 6 may apply for a subdivision consent at the expiration of 5 years from the date of registration of this instrument; and
 - (ii) For the avoidance of doubt this clause 4.1(a) Covenant shall not apply to Lot 5;
- (b) Permit the carrying on of any trading, commercial, industrial or other non-residential activity on the Lot except for an office used by the Owner and the immediate family of the Owner;
- (c) Allow on the Lot any activity which creates a nuisance, disturbance or damage to any Owner or occupier of any other Lot;
- (d) Allow any unreasonable off-site glare from any lighting on the Lot, such as permanent spotlights;
- (e) Allow or permit any caravan, truck, bus, broken down vehicle, trailer, machinery, shed, tent, temporary structure or other unsightly object (not including any motor car, small van or utility truck that is in good working order, repair and appearance) to be parked or remain on the Lot or any internal access of the Development for any period of time greater than 1 day unless it is adequately screened or garaged in a satisfactory manner to prevent offence to any other Lot and to preserve the amenities of the Development;
- (f) Allow any buildings or structures on the Lot to become dilapidated or to fall into disrepair;
- (g) Permit any dog or other pet to be kept in or about the Lot which dog or other pet is likely to cause a nuisance or annoyance to neighbours or detract from the subdivision, and in particular, without otherwise limiting this restriction, not to keep on or about the Lot any dog which in whole or in part appears to be a Pit Bull Terrier, Rottweiler, Japanese Akita, Japanese Tosa, Dogo Argentino or Brazilian Fila unless previously agreed in writing by the Developer;
- (h) Keep or raise any livestock, poultry, reptiles or animals of any kind or size on the property or in any building other than domesticated household pets. The keeping of pigeons is expressly prohibited;
- (i) Permit any advertisement, sign, or hoarding of a commercial nature (excluding a professionally made "For Sale" sign not exceeding 2m² in size and any compulsory statutory signage or builder's signage) to be erected on any part of the Lot or dwelling;
- (j) Allow the Lot to become at any time (including during construction) littered, overgrown (including allowing grass to grow more than 100mm in height) or unsightly to the intent that the Lot is to be maintained in a neat and tidy condition, nor allow any noxious weeds (including gorse, blackberry or ragwort) to grow on the Lot;
- (k) Allow any live hedges to exceed 3 metres in height;
- (l) Allow to be grown or plant any species of trees likely to grow to a height exceeding 7 metres;
- (m) Allow any tree to become dangerous or hazardous in any way; or
- (n) Plant on any boundary of any Lot any hedgerows consisting of trees from either the Pinus and/or Macrocarpa families or plantation type trees.

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Annexure Schedule A

Page 4 of 5 Pages

Insert instrument type

Land Covenant

4.2 Despite anything contained in clause 4.1 above, the Owner may not:

- (a) construct, erect or place (or permit to be constructed, placed or erected) any structure on areas B, C, D or E on Deposited Plan 588703; or
- (b) permit any vegetation, plant, tree, bush or shrub on areas B, C, D and E on Deposited Plan 588703 to exceed two metres in height.

5 Construction

5.1 The Owner shall:

- (a) Commence construction of the Dwelling on the Lot within 3 years of the date of registration of this instrument and complete construction of the dwelling on the Lot within 15 months of first laying down the foundations for such dwelling;
- (b) Complete within 18 months of first laying down the foundations for any Dwelling in a proper and tradesmanlike manner a driveway for vehicle access in a permanent continuous surfacing of concrete, tarsealing or compacted material (which must be approved by the Developer pursuant to clause 3.1(a) above);
- (c) During the construction of any Improvements or services on the Lot, ensure all construction materials, rubbish and excavation materials are stored within the boundaries of the Lot and that adequate rubbish disposal containers are provided within the Lot to hold and control waste materials and to prevent them being wind-blown onto adjoining Lots or roads;
- (d) Ensure that the Lot is clean and tidy, and all waste or excess material is removed from the Lot within one month of completion of the construction of any Improvements;
- (e) Ensure that no damage or disturbance is caused to any part of any road, footpath, reticulated services, berm, kerb, street light or landscaping in the Development and in the event that any such damage or disturbance is caused, the Owner of that Lot must within a reasonable time make good the damage or disturbance at its cost;
- (f) Ensure air conditioning units, portable gas cylinders or bottles placed on the Lot are not visible from the road. This does not apply to gas bottles for use with outdoor barbeques or free-standing outdoor gas heaters; and
- (g) Not allow construction of any building to be delayed so that substantial progress is not made for any period exceeding 3 months.

5.2 The Owner shall not:

- (a) Move, damage or remove any survey pegs or markers on the Lot and in the event of any breach of this restriction, the Lot Owner will, at their own cost, have such pegs or markers replaced by a registered surveyor;
- (b) Make use of any adjoining Lot (whether occupied or not) any berms (except at designated crossings) or footpaths for construction work or for access by vehicles;
- (c) Use the Lot to be occupied or used as a residence either prior to the dwelling being completed and a Code of Compliance Certificate has been issued by the Christchurch City Council for the same, or by the erection of temporary structures or by the placing of caravans and/or vehicles for human occupation;

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Annexure Schedule A

Page 5 of 5 Pages

Insert instrument type

Land Covenant

- (d) Permit the dwelling to be occupied unless all driveways and paths are completed in permanent materials, all boundary fences are completed and all unpaved areas are properly grassed or landscaped;
- (e) Allow or permit the use of any existing building or erection of any temporary building or structure upon the Lot except such as may be used in conjunction with the construction of a residential dwelling on the Lot and which will be removed from the Lot upon completion of the residential dwelling. The Developer shall have the right to require the removal of any temporary building or structure which it considers in its absolute discretion not to be of a nature and type suitable to the Developer; or
- (f) Require the Developer to repair or contribute towards the cost or erection or repair of any dividing or boundary fence between any Lot and any adjoining land owned by the Developer, but the benefit of this fencing covenant shall not enure to any transferee of such adjoining land.

6 Breach of Covenant

- 6.1 If any Owner does not comply with any specifications or conditions of the Developer's approval or observance of any of these covenants, the Developer may serve notice on the Lot Owner requiring him, her or them to remedy the non-compliance within a reasonable period of time specified in that notice.
- 6.2 If the owner does not remedy the non-compliance referred to in clause 6.1 above within the period specified, the Developer may:
 - (a) Enter onto the Lot where the non-compliance has occurred and either remedy the non-compliance or remove any non-complying works;
 - (b) Authorise any contractor or agent to enter onto the Lot where the non-compliance has occurred and either remedy the non-compliance or remove any non-complying works; and
 - (c) Recover the costs of its actions taken under this clause as a liquidated debt from the Lot Owner.
- 6.3 The Developer may take any other action it considers reasonably necessary to prevent a breach of any Developer's approval including (but not limited to) requiring construction of any Improvements on the Lot to cease pending remedy of such breach.
- 6.4 The covenants in this instrument will immediately cease to apply to any land (or part thereof) which is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

7 Liability

- 7.1 Approval (conditional or unconditional) given by the Developer shall not be construed as certifying compliance of any works with any laws or Territorial Authority requirements or other approvals required by other agencies for that work.
- 7.2 Notwithstanding these Covenants, the Developer shall be entitled to waive strict compliance with the conditions of the Developer's approval provided that the Developer decides in its sole discretion that the proposed amendments are generally in accordance with the aims expressed herein and in accordance with the continued harmony of the Development generally and for the avoidance of doubt any decision as to this waiver by the Developer shall be final and not subject to any review whatsoever.

8 Existing Building

- 8.1 It is noted that the land covenants contained herein do not apply to any existing building located on any Lot as at the date of registration of this land covenant. Any existing buildings are to be removed within 2 years of the date of registration or at the discretion of the Developer.