

Covenant Instrument to note land covenant

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

Covenantor

RIVERVIEW PROPERTIES LIMITED

Covantee

RIVERVIEW PROPERTIES LIMITED

Grant of Covenant

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covantee** (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 required

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land Covenant	See First Schedule, Annexure Schedule A	See Burdened Lots in First Schedule, Annexure Schedule A	See Benefited Lots in First Schedule, Annexure Schedule A

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 A.

Insert instrument type

Land Covenant

BACKGROUND

- A. The Covenantor is the registered proprietor of the Burdened Lots and the Benefiting Lots.
- B. The Burdened Lots and the Benefiting Lots are part of a rural residential estate (“the rural estate”)
- C. The Covenantor has agreed to create the covenants as set out herein in favour of the Covenantee in order to ensure that the character of the rural estate is maintained, preserved and enhanced.

DEFINITIONS AND INTERPRETATION

1.1 Definitions

“Benefiting Lots” means the Lots shown as Benefiting Lots set out in the first Schedule as the case may be.

“Burdened Lots” means the Lots shown as Burdened Lots set out in the first Schedule as the case may be.

“the Developer” means Riverview Properties Limited or any person or entity appointed or nominated in writing by them to be the Developer. Where the Developer has been dissolved, wound up, deregistered or otherwise passed out of existence any approval or consent required from the Developer shall mean approval or consent by any party previously appointed and/or nominated in writing by the Developer for this purpose.

“Lots” means Lots 1-16 DP 600321.

“Relevant Authority” means the local or regional authorities with jurisdiction over the Development.

“Subdivision” means the subdivision and development of Lot 19 DP 598327 and Lot 1 DP 600321 by the Developer.

1.2 Interpretation

- (a) words and expressions denoting the singular shall where the context so requires include the plural and vice versa.
- (b) headings have been inserted for guidance only, and shall not be deemed to form part of the context of this instrument.

COVENANTS

2. Agreement

- 2.1 The Covenantor, for itself so as to bind the Burdened Lots in the First Schedule (“Burdened Lots” and each one of them a “Burdened Lot”), covenants and agrees with the Covenantee that the Covenantor shall always observe and perform all of the covenants set out in Clause 3.0 of this instrument until 31 December 2043 at which time the covenants shall cease to apply to the end

and intent that each of the covenants shall enure for the benefit of the Benefiting Lots for so long as the Developer is the registered proprietor of a Benefiting Lot until 31 December 2043.

- 2.2 The covenants in this instrument shall be enforceable by the Covenantee against the Covenantor as owner of the Burdened Lot and his, her or its successors in title, transferees, assigns and occupiers for the time being of the Burdened Lot.
- 2.3 No delay or failure by the Covenantee to enforce performance of any covenants set out in this instrument and no indulgence granted to the Covenantor by the Covenantee shall prejudice the right of the Covenantee to enforce any of the covenants or provisions of this instrument.
- 2.4 The Covenantor shall bear any costs which may be incurred by the Covenantee as a result of any default by the Covenantor under this instrument.
- 2.5 The Covenantee shall not be required to nor obliged to enforce all or any of the covenants and the Covenantor shall be liable only in respect of breaches of the covenants which occur while the Covenantor is registered as proprietor of the Burdened Lot.
- 2.6 If there is any breach or non observance of the covenants set out in this Instrument then the Covenantor must (without prejudice to any other liability the Covenantor may have to any person having the benefit of the covenants):
 - (a) cease any activity in breach or non-observance of the covenants;
 - (b) otherwise remedy any breach or non-observance of the covenants.

3.0 The Covenantor shall:

- 3.1 not commence the construction or erection of improvements on the Burdened Lot whether a dwelling, accessory building, fence or swale crossing (and this shall also include exterior finishes and excavation of foundations upon the Burdened Lot) unless plans and specifications and all other details of construction and finish as the Developer in its absolute discretion may require have been submitted to the Developer and have received the Developer's written approval. The Developer's approval shall not be unreasonably withheld where the Developer is satisfied that the proposed building is reasonably sited, compliments adjoining properties and does not detract from the standard of buildings in the rural estate and the neighbouring properties and otherwise complies with the Covenants set out in this instrument.
- 3.2 not use or permit any Burdened Lot to be used for:
 - (a) any trading or commercial purpose other than a home occupation, as defined in the relevant local authority District Plan, which meets the permitted standards, or otherwise has resource consent, and which has the prior written consent of the Developer which may be withheld at its absolute discretion; or
 - (b) display or showhomes except with the prior written consent of the Developer which may be withheld at its absolute discretion or which may be granted subject to conditions imposed by the Developer at its absolute discretion.
- 3.3 not permit or suffer any rubbish to accumulate or to be placed upon the Burdened Lot, and at all times to maintain the house and curtilage on a Burdened Lot in a neat and tidy condition including keeping the grass mowed or grazed so the grass does not exceed 150mm in height.
- 3.4 not permit any immobile/unroadworthy vehicles to be stored on the Burdened Lot unless those vehicles are stored within an enclosed shed or garage.
- 3.5 store any motorhome or caravan in a manner that ensures they are not substantially visible from the road, any shared right of way and any adjoining property.
- 3.6 ensure that pasture areas are regularly grazed or mown.
- 3.7 not construct on the Burdened Lot a principal dwelling with a floor area less than 160 square metres (excluding garage, carports and decking) or such lesser area as approved in writing by the Developer.

- 3.8 construct no more than one single story principal dwelling and one single story minor dwelling on the Burdened Lot.
- 3.9 not erect on the Burdened Lot or relocate to the Burdened Lot a dwelling which is "second hand" or is pre constructed, or use any second hand building materials in construction of a dwelling.
- 3.10 not subdivide, or permit any subdivision of the Burdened Lot including subdivisions by way of cross-leases and subdivisions under the Unit Titles Act 1972 provided that this covenant shall not apply while the Burdened Lot is owned by the Developer.
- 3.11 not allow any temporary building or structure to be erected on the Burdened Lot to be used except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Burdened Lot upon completion of the said construction.
- 3.12 not allow any advertisement, sign or hoarding of a commercial nature to be erected on any part of the Burdened Lot, except with the prior written consent of the Developer which may be withheld at the Developer's absolute discretion.
- 3.13 not permit any telecom or electricity services to be provided by "overhead" means to the dwelling (and any other structures/buildings to be erected on the Burdened Lot). All other utilities and services must be by underground means from the road to the dwelling and other structures/buildings to be erected on the Burdened Lot.
- 3.14 maintain all landscaping provided by the Developer on the Burdened Lot to the same standard at which it was supplied, which includes mixed, native and exotic bund planting and standard planting, at the Covenantor's cost, and includes ensuring that all dead species are replaced.
- 3.15 ensure that concrete vehicle crossings from the road to the Burdened Lot boundary match the colour and materials used by the Developer for the footpaths in the Subdivision, being grey, exposed concrete with 4kg/m³ black oxide or other concrete finish colour as approved in writing by the Developer.
- 3.16 ensure that all driveways and hardstands of an unexposed finish have a minimum of 4kg/m³ black oxide colouring or other concrete finish colour as approved in writing by the Developer.
- 3.17 ensure that any water tank placed on the Burdened Lot that is visible from a public road or adjoining property is screened from the road or adjoining property to a minimum of 50% of the visible area.
- 3.18 not allow the duration of any building construction works on any Burdened Lot to extend beyond the period of 12 months from the date of commencement of such works.
- 3.19 not use or permit or suffer to be used on any building on the Burdened Lot any building material other than brick, stone, concrete block, insulclad, masonry, stucco, solid plaster, linea weatherboard or approved timber weatherboard for any outer wall facing except with the written consent of the Developer which may be withheld at its discretion.
- 3.20 not use any corrugated iron roofing, corrugated iron or zincalume on any fencing or on the exterior of the building (except for Colorsteel which may be used for roofing provided that the colour complies with clause 3.26 of these covenants) unless the Covenantor obtains the written consent of the Developer which may be withheld at its discretion.
- 3.21 not permit any dwelling house on the Burdened Lot to be occupied for more than twelve calendar months unless all driveways, paths and fences are completed in permanent materials and all unpaved areas are properly grassed or landscaped.
- 3.22 not allow the Burdened Lot to remain unlandscaped without lawns and shrubs for a period greater than twelve calendar months following practical completion of a dwelling house on the Burdened Lot.
- 3.23 not carry out any earthworks (either cutting or filling) in excess of 1 metre height or depth within 1 metre of any adjoining lot boundary unless such works have been consented to in writing by the Developer which may be withheld at its absolute discretion.
- 3.24 not undertake any construction works on the Burdened Lot without at all times complying with the following conditions and restrictions:

- (a) To keep the Burdened Lot in a tidy orderly and safe condition throughout the construction period.
 - (b) Maintain the Burdened Lot at all times during the course of construction free from rubbish and excessive vegetation.
 - (c) Not store or dump any construction materials or debris on any adjoining lot or cross any adjoining lot for goods or vehicle access unless consent has been granted by the Developer in writing and by the adjoining lot owner.
 - (d) Not allow major site works to commence unless a vehicle crossing and access drive for construction vehicles has been formed in metal aggregate or an alternative material as the Developer may approve at their discretion.
 - (e) Not allow rubbish, containers, equipment or other materials to be placed or escape onto adjoining or nearby lots or roads.
 - (f) Not deposit or allow any dirt, gravel, clay or other substance to be left on any road in the vicinity of the Burdened Lot.
 - (g) To contain on the lot any silt generated during the construction of the dwelling house.
 - (h) Not to damage or remove any street trees planted by the Developer on or adjacent to the Burdened Lot. The Covenantor will be responsible for any damage caused to the trees by themselves or their contractors, employees or any other invitee.
- 3.25 not erect or place or permit to be erected or placed on the Burdened Lot any clothes line in the front yard of the Burdened Lot that is substantially visible from the road or any shared right of way. As a guide clothes lines or service courts should be adequately screened by sufficient planting and/or fencing to ensure they are not entirely visible from other Burdened Lots, any shared right of way or public areas.
- 3.26 ensure that the final colours of the exterior cladding and roof of the dwelling house on the Burdened Lot shall be neutral, earthy or muted tones sympathetic with the surrounding environment. Very vibrant colours including but not limited to yellow, orange or bright blue will not generally be approved.
- 3.27 not allow to remain on any walls, fence, structure or building on the Burdened Lot any graffiti or similar disfiguring for more than five working days from the date that such graffiti or disfiguring occurred.
- 3.28 locate any attachments to the dwelling house and buildings on the Burdened Lot (including but not necessarily limited to television antenna and satellite dishes) so they are not directly visible from the road or any shared right of way.
- 3.29 not permit the keeping or farming of pigs, roosters, goats or donkeys on the Burdened Lot; nor use the Burdened Lot for animal boarding facilities or for any other activity likely to cause a nuisance or excessive noise.
- 3.30 ensure that any stone wall erected on the Burdened Lot by the Developer is maintained in good repair and condition.

4.0 Fencing

- 4.1 The Developer shall not be required nor shall it be called upon to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between any of the Lots and any contiguous land owned by the Developer, but this proviso shall not enure for the benefit of any subsequent registered proprietor of such contiguous land.
- 4.2 The Covenantor shall ensure that any fencing on boundaries facing a road or a commonly owned access lot is post and rail fencing. The Covenantor shall ensure that all post and rail fencing is constructed and maintained to match fencing erected by the Developer.

5.0 Indemnity and Consequences of Breach

- 5.1 The Covenantor covenants with the Covenantee that it will at all times save harmless and keep indemnified the Covenantee from all proceedings, costs, claims and demands in respect of breaches by the Covenantor of the covenants on its part contained or implied herein, and also the enforcement of such covenants by the Covenantee.
- 5.2 The Covenantor acknowledges that the value of the Benefiting Lot will be affected by any non-compliance with or breach of any of the covenants contained or implied herein and the Covenantor covenants for the benefit of the Benefiting Lot that should the Covenantor fail to comply with, observe, perform or complete any of the covenants contained or implied herein then without prejudice to any other liability the Covenantor may have to the Covenantee (which includes any other person or body having the benefit of such covenants) the Covenantor shall:
- (a) immediately cease any activity in breach of these covenants; and
 - (b) immediately permanently remove or cause to be permanently removed from the Burdened Lot any offending improvements or structure or other cause of any breach or non-observance of such covenants; and otherwise forthwith remedy the breach or non-observance thereof and replace any building materials used in breach or non-observance of these covenants; and
 - (c) if the breach or failure is not remedied within 15 working days of the date of written notice of such breach or failure then the Covenantee (together with its agents, employees or contractors) shall be entitled to enter onto the Burdened Lot to arrange for rectification of the Covenantor's breach or failure at the cost of the Covenantor; and
 - (d) if the breach or failure is not remedied within 15 working days of the date of written notice of such breach or failure then the Covenantor must pay to the person making such demands as liquidated damages the sum of \$300.00 per day for everyday that such breach or non-observance continues after the date upon which written demand has been made together with any costs and expenses incurred by the Developer to remedy the breach or non-observance.

6.0 General

- 6.1 The covenants set out in clause 3.0 of this Instrument shall run with each Burdened Lots set out in the First Schedule for the benefit of the Benefiting Lots described in the First Schedule TO THE INTENT that the Covenantor and Covenantee shall continue to be bound until 31 December 2043 at which time the covenants shall cease to apply to the end and intent that each of the covenants shall enure for the benefit of the Benefiting Lot until 31 December 2043.

FIRST SCHEDULE

Covenanting Lots	Benefiting Lots
Lot 1 Deposited Plan 600321	All Lots other than Lot 1 Deposited Plan 600321
Lot 2 Deposited Plan 600321	All Lots other than Lot 2 Deposited Plan 600321
Lot 4 Deposited Plan 600321	All Lots other than Lot 4 Deposited Plan 600321
Lot 5 Deposited Plan 600321	All Lots other than Lot 5 Deposited Plan 600321
Lot 6 Deposited Plan 600321	All Lots other than Lot 6 Deposited Plan 600321
Lot 7 Deposited Plan 600321	All Lots other than Lot 7 Deposited Plan 600321
Lot 8 Deposited Plan 600321	All Lots other than Lot 8 Deposited Plan 600321
Lot 9 Deposited Plan 600321	All Lots other than Lot 9 Deposited Plan 600321
Lot 10 Deposited Plan 600321	All Lots other than Lot 10 Deposited Plan 600321
Lot 11 Deposited Plan 600321	All Lots other than Lot 11 Deposited Plan 600321
Lot 12 Deposited Plan 600321	All Lots other than Lot 12 Deposited Plan 600321
Lot 13 Deposited Plan 600321	All Lots other than Lot 13 Deposited Plan 600321
Lot 14 Deposited Plan 600321	All Lots other than Lot 14 Deposited Plan 600321
Lot 15 Deposited Plan 600321	All Lots other than Lot 15 Deposited Plan 600321
Lot 16 Deposited Plan 600321	All Lots other than Lot 16 Deposited Plan 600321