

View Instrument Details



Instrument No 12815907.4
Status Registered
Date & Time Lodged 30 August 2023 14:05
Lodged By Rozendaal, Patrick James
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



| Affected Records of Title | Land District |
|---------------------------|---------------|
|---------------------------|---------------|

| | |
|---------|------------|
| 1103392 | Wellington |
| 1103393 | Wellington |
| 1103394 | Wellington |
| 1103395 | Wellington |
| 1103396 | Wellington |
| 1103397 | Wellington |
| 1103398 | Wellington |
| 1103399 | Wellington |
| 1103400 | Wellington |
| 1103401 | Wellington |
| 1103402 | Wellington |
| 1103403 | Wellington |
| 1103404 | Wellington |

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 David Saul Briscoe as Covenantor Representative on 09/08/2023 05:48 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 David Saul Briscoe as Covenantee Representative on 09/08/2023 05:48 PM

*** End of Report ***

Form 26

Covenant Instrument to note land covenant

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

Covenantor

LEVIN ESTATES LIMITED

Covenantee

LEVIN ESTATES 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

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 | DP 585320 | Lots 1 to 13 inclusive on Deposited Plan 585320 (RTs 1103392 to 1103404 inclusive) | Lots 1 to 13 inclusive on Deposited Plan 585320 (RTs 1103392 to 1103404 inclusive) |

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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It is the Covenantor's intention to create for the benefit of the Benefited Land, the covenants over the Burdened Land as described in this Annexure Schedule. The Burdened Land shall be bound by the covenants and conditions set out in this Annexure Schedule so that the covenants and conditions run with the Burdened Land for the benefit of the Benefited Land.

1 Definitions

- 1.1 In this Covenant Instrument, unless the context otherwise requires:
- 1.1.1 **Authority** means any local body government or other authority having jurisdiction or authority over or in respect of any part of the Burdened Land.
 - 1.1.2 **Benefited Land** means the land described in Schedule A of this Covenant Instrument.
 - 1.1.3 **Building** means any structure on the Burdened Land other than:
 - (a) a fence or wall less than one metre in height above ground level; and
 - (b) any other structure less than five square metres in area and less than two metres in height above ground level.
 - 1.1.4 **Burdened Land** means the land described in Schedule A of this Covenant Instrument.
 - 1.1.5 **Developer** means Levin Estates Limited or its nominee or assignee.
 - 1.1.6 **Development** means the dwellings, outdoor areas, utilities and any shared spaces on the Burdened Land.
 - 1.1.7 **Registered Owner** means each registered owner of the Burdened Land and their agents, tenants, licensees, occupants and other invitees.

2 Covenants

- 2.1 The Registered Owners each covenant and agree:

General

- 2.1.1 To observe and perform all the covenants in this Covenant Instrument at all times.
- 2.1.2 The covenants shall run with and bind the Burdened Land (including any part of the Burdened Land).
- 2.1.3 The provisions of this clause 2 are intended to be for the benefit of and to be enforceable by under Part 2, Subpart 1 of the Contract and Commercial Law Act 2017 by the Developer.
- 2.1.4 To pay the Developer's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Developer's making demand's rights, remedies and powers under this Covenant Instrument.
- 2.1.5 To indemnify the Developer and each of the Benefited Land against all claims and proceedings arising out of a breach by any Registered Owner of any of the covenants.

Assistance to Developer

- 2.1.6 To not object to the Developer (including its contractors, employees and agents) having reasonable access as required to the Burdened Land for the purpose of proceeding with the Development or any part of it.

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2.1.7 To, and hereby grant, such easements in favour of the Developer and/or other Benefited Land or Registered Owners over or under their Burdened Land as are required for the Development to proceed or as may be necessary or desirable in the opinion of the Developer for the Development or any part of it.

2.1.8 To not oppose, or take part in any opposition to, the Development or any part of it.

Buildings

2.1.9 The Burdened Land shall be subject to the burden of the covenants set out below for the benefit of each of the Burdened Land:

- (a) Only one new dwelling house (being a building that is to be occupied as a residence and including any building of similar design that is accessory to and used wholly, or principally, for the purposes of a residence) of an aggregate floor area of no less than 160 m² shall be erected on each Burdened Land. No point of any building (except television aerials or chimneys no wider than 600 mm) on any part of any Burdened Land will be higher than the lesser of 9 metres above the average original ground level around the perimeter of the building, or the relevant height restriction contained in the Authority's district plan applying to the Burdened Land.
- (b) Each dwelling house shall be in accordance with plans and specifications submitted to the Developer for prior approval with the objective of retaining an overall high standard of dwellings erected on the Burdened Land, with quality materials, textures and colours sympathetic to the environment. In view of this objective, the Developer shall have complete discretion in granting or declining approval. As a guideline for obtaining approval, it is expected that a minimum of 80% of the exterior cladding of the dwelling will consist of the following materials:
 - (i) Kiln fired or concrete brick.
 - (ii) Stucco textured finish.
 - (iii) Pre-painted galvanised iron in its various profiles.
 - (iv) Stone.
 - (v) Timber.
 - (vi) Texture-coated Insulclad or flat sheeting.
 - (vii) Pre-finished metal and timber weatherboard (such as Lockwood).
 - (viii) Timber weatherboarding or vertical boarding.
 - (ix) Texture-coated or plastered concrete blocks.
 - (x) Concrete or concrete products (such as Hebel).
 - (xi) Linear Board.
- (c) All materials which are not pre-finished and which require painting must be painted within three (3) months of attachment to a building on the Burdened Land. This provision does not apply to the following materials:
 - (i) Wood shingles.
 - (ii) Bricks.
 - (iii) Splitstone.

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- (iv) Vinyl products.
- (v) Natural stone.
- (d) The external colour scheme of any building or structure on any part of any Burdened Land must be kept in harmony and consistent with the design of the other dwellings in the Development.
- (e) No pre-built building, including dwellings, farming or accessory buildings shall be transported onto any of the Burdened Land unless such pre-built building has first been approved by the Developer. Any such building shall be new and constructed of materials which comply with the terms of these covenants.
- (f) Prior to the commencement of construction of any new buildings on any part of any Burdened Land, no temporary building or tent nor any caravan, bus or tram (nor any other vehicle providing a similar temporary residential function) shall be permitted to remain on any part of any Burdened Land for any period in excess of four (4) months within any six (6) month period, and no such vehicle shall be permitted at any time without a current warrant of fitness and registration.
- (g) Once construction has been completed no tent, caravan, truck, bus, temporary building trailer, boat, trail bike, machinery or unsightly object (not including any motor vehicle, small van or utility truck that is in good working order, repair and appearance) shall be parked or permitted to remain for any material period of time on any part of any Burdened Land unless garaged or screened so as to preserve the amenities of the neighbourhood.
- (h) No caravan, tent, campervan or other similar facility or temporary building or structure shall be used for temporary or permanent rental accommodation or work for rent arrangement on any part of any Burdened Land.
- (i) No part of any Burdened Land or buildings thereon shall be allowed to deteriorate in any way which detrimentally affects the amenity of the Development (including permitting noise to escape which is likely to cause offence to any other Registered Owner).
- (j) No pine trees (including Norfolk Pines) will be grown on any part of any Burdened Land and no windbreak or boundary hedge shall exceed 1.8 metres in height.
- (k) All noxious weeds including gorse shall be controlled.
- (l) Driveways or vehicle access ways shall be formed to a minimum applicable Authority metalled standard with road metal, and all driveways and access ways shall be kept in a neat and tidy condition.
- (m) No noisy, smelly, or unsightly activity shall be operated on any part of any Burdened Land, even if permitted by the Authority's district plan or by any other regulation or bylaw. In particular, there shall not be permitted on any part of any Burdened Land the operation of any pig or poultry farm, commercial kennels, panel beating business, wreckers yard, vehicle or machinery sales or storage yard, commercial mechanical repair garage or any other use or activity which the Developer considers to be incompatible with a residential or rural lifestyle subdivision, excluding a vineyard or any other horticultural or farming use.
- (n) Animals (including dogs and other domestic pets) shall only be kept in or about any Burdened Land and buildings thereon if they do not cause undue nuisance or annoyance to other Registered Owners or do not detract from the Development as a whole.

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- (o) No rubbish or waste materials shall be allowed to accumulate on any part of any Burdened Land and no Burdened Land shall be allowed to become untidy or unsightly.
- (p) Any tank installed on any part of any Burdened Land for storage of water or other liquids shall be entirely underground.

3 Fencing

- 3.1 A Registered Owner will not call on the Developer to pay or contribute towards the cost of erection or maintenance of any boundary fence between any two Burdened Land properties provided that this covenant will not enure for the benefit of any subsequent Registered Owner of any adjoining Burdened Land.

4 Modification

- 4.1 Whilst the Developer remains the Registered Owner of all the Burdened Land it reserves the right to itself (with the intent that this right does not enure to its successors in title(s)) to waive or modify any of the above covenants, but it will only do so if, in its opinion, such action does not impinge on the integrity of the Development in its entirety.

5 Breach

- 5.1 If there is a breach or any non-compliance of the forgoing covenants and without prejudice to any other liability which the Developer or other Registered Owner may have to any person having the benefit of these covenants, the Registered Owner will, upon written demand being made by the Developer or any of the Registered Owners with the benefit of these covenants:
- 5.1.1 Immediately remove or cause to be removed from any Burdened Land any dwelling house, garage, building, out-building, fence or other structure erected on it or placed on the land in breach or non-observance of the foregoing covenants; and
 - 5.1.2 Where any breach or non-compliance of the foregoing covenants continues for twenty (20) days after demand has been made to remedy the non-compliance the Registered Owner shall pay to the person making demand as liquidated damages the sum of \$150.00 per day for every day that such breach or non-compliance of the covenants continues.
- 5.2 The Registered Owners will not have any claim in damages against the Developer on account of any refusal to grant or the grant of any approval under this clause or for transferring or assigning its interest and right to grant or withhold approvals as provided herein and such transferee or assignee fails to observe those obligations.

6 Notices

- 6.1 Any notice required to be served on any party shall be in writing and in accordance with the Property Law Act 2007.

7 Disputes

- 7.1 If a dispute arises in relation to this Covenant Instrument:
- 7.1.1 The party initiating the dispute must provide full written particulars of the dispute to the other party;
 - 7.1.2 The parties must promptly meet and in good faith try to resolve the dispute; and
 - 7.1.3 If the dispute is not resolved within ten (10) days of the written particulars being given (or any longer period agreed by the parties) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996 to be conducted by a single arbitrator to be agreed

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Annexure Schedule 1

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| | on by the parties or, failing agreement, to be appointed by the President of the Wellington Branch of the New Zealand Law Society. |
| 7.2 | Notwithstanding clause 7.1.3 if any dispute arises in relation to this Covenant Instrument including as to what may constitute a breach or as to matters of interpretation of this Covenant Instrument whilst the Developer is the owner of any Benefited Land then the same shall be referred to the Developer for resolution whose decision shall be final. |
| 8 | Severability |
| 8.1 | If any provision of this Covenant Instrument is judged invalid, unlawful or unenforceable for any reason whatsoever by a Court of competent jurisdiction, such invalidity, unenforceability or illegality will not affect the operation, construction or interpretation of any other provision of this Covenant Instrument to the intent that the invalid, unenforceable or illegal provision will be treated for all purposes as severed from this Covenant Instrument. |