

## Covenant Instrument to note land covenant

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

### Covenantor


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### Covenantee


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### 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 Covenant	DP 596545	Lots 1-6 (inclusive) DP 596545 (Records of Title 1169092-1169097 (inclusive))	Lots 1-5 (inclusive) DP 596545 (Records of Title 1169092-1169097 (inclusive)) Lot 2 DP 351293 (Record of Title 210191)

**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 \_\_\_\_].

## **ANNEXURE SCHEDULE – Restrictive Covenants**

### **1. Purpose**

- 1.1 The purpose of these Covenants is to protect the market and aesthetic value of the Benefiting Lots, the privacy, peace and security of the occupants of the Benefiting Lots and the quality of the environment touching and concerning the Benefiting Lots.
- 1.2 Where there is at any time more than one owner of a Lot, these Covenants will be binding upon each and every owner jointly and severally.

### **2. Definitions and Interpretation**

#### 2.1 Interpretation

- 2.1.1 Words importing one gender include the other gender.
- 2.1.2 Words importing the singular or plural include the plural and singular respectively,
- 2.1.3 Headings are inserted for the sake of convenience and ease of reference only. They do not form part of the text, and will not affect the construction or interpretation of these Covenants.

#### 2.2 Definitions

In these Covenants, unless the context otherwise requires:

- "Benefiting Lots" means the Lots which receive the benefit of these Covenants being Lots 1-5 Deposited Plan 596545 located at 26A Jozecom Place, Rolleston;
- "Building" comprises a Building as defined by the Building Act 2004 and includes a Dwelling;
- "Covenants" means the Covenants contained within this document;
- "Developer" means Andrew Leslie Crosbie, Diane Patricia Crosbie and Canterbury Trustees (2008) Limited as Trustees of Crosbie Family Trust and/or nominee;
- "Development" means the development of 26A Jozecom Place, Rolleston including but not limited to the existing and future recreational facilities, dwellings, open spaces, walkways, car parking and all other associated infrastructure;
- "Dwelling" means and includes a residential dwelling, or family residence;
- "Erected" and "Erection" includes the installation of a relocatable dwelling;
- "Fence" includes a wall;
- "Land" means each of the Lots;
- "Landscape feature" means any visible structure or landscape design or enhancement feature or utility to be provided on any Lot;
- "Lot" means any Lot that is subject to these Covenants being Lots 1-6 Deposited Plan 596545 located at 26A Jozecom Place, Rolleston;
- "Lot Owner" means the owner of any Lot;
- "Property" means a Lot together with any Dwelling and Buildings situated thereon, and;

- (a) unless the context otherwise requires, includes any part of such Dwelling which is subject to a party wall easement and all Buildings (if any) situated on such lot; and
- (b) in relation to any proprietor or occupier means the property owned or occupied by that proprietor or occupier (as the case may be);

“Territorial Authority” means a territorial authority within the meaning of the Local Government Act 2002.

### **3. Restrictions on development and use of the land**

3.1 The Covenantor shall, in relation to any land owned by the Covenantor:

#### ***Dwelling Size and Garaging***

- (a) Not erect or permit to be erected on the land any dwelling unless it complies with the following requirements:
  - (i) the dwelling has a minimum floor area of at 220 square metres including fully integrated garaging being (at least) a double garage;
  - (ii) the floor area and siting of the dwelling on the lot complies fully with existing Selwyn District Council setback requirements.

#### ***Dwelling Construction***

- (b) Ensure that the perimeter (on a horizontal plane) of the roof of any dwelling on the land shall not form a rectangle unless the roof contains at least one roof break or full valley.
- (c) Not use, or permit to be used, any exterior cladding on the dwelling other than kiln fired or concrete brick, stucco textured finish, stone, timber weatherboards, linea weatherboards, metal laminate on timber or any other cladding material which the developer consents to in writing. The use of second hand materials is specifically prohibited.
- (d) Not use metal clad roofing for any dwelling on the land unless it has been pre-painted or copper building materials for roofing or spouting and downpipes.

#### ***Restrictions on Improvements***

- (e) Without limiting any other covenant, not permit any building to be erected on the land other than:
  - (i) a new dwelling (with a fully integrated garage);
  - (ii) a relocatable dwelling (with a fully integrated garage and a Code Compliance Certificate) that was previously a show home and has not been previously lived in; or
  - (iii) a building normally appurtenant to a residential dwelling, provided that any walls of the building visible from the road frontage of the land are the same material as the walls of the dwelling on the land.
- (f) Not erect or permit to be erected or placed on the land any carport unless attached and fully integrated into the roofline of the dwelling or garage on the land and screened from view from the road by fencing or landscaping approved by the developer.
- (g) Not erect or permit to be erected anything other than a single storey dwelling house on the land.

## **Approval of Design**

- (h) Not do any work or permit any work for the erection of buildings, accessory buildings, fences, driveways or other improvements unless the plans and specifications and all other details of construction and finish as the developer in the developer's absolute discretion may require, have first been submitted to the developer and received the developer's written approval. Without limiting the above items requiring the developer's approval will include siting, size, layout and colour.

## **Additional Approval Requirements for Relocatable Dwellings**

- (i) Not erect a relocatable dwelling without, first, (in addition to complying with all the other clauses in this instrument):
  - (i) Disclosing to the developer prior to signing the purchase contract that it is the purchaser's intention to relocate a dwelling onto the land and including a clause in the Agreement for Sale and Purchase stating that;
  - (ii) Submitting to the developer a landscaping plan for the land (showing the proposed fencing, driveway, paths and grassing) and obtaining the developers written approval of the landscaping plans;
  - (iii) Constructing the foundations before moving the relocatable dwelling onto the land. The dwelling must be affixed to the foundations within one month of the relocatable dwelling being placed on the land;
  - (iv) Paying a bond of \$10,000.00 to the developer's solicitor to be held until the Covenantor has complied with all aspects of the approved landscaping plan and the conditions contained in these land covenants and provided a copy of the Code Compliance Certificate for the erection of the relocatable on the land to the developer or its solicitor.

## **Restriction on further Subdivision**

- (j) Not subdivide the land (as defined in the Resource Management Act 1991 or any replacement legislation) or amalgamate the land with other land.

## **Fencing**

- (k) Without prejudice to clause 1.1(h), not erect or permit to be erected on the land a fence:
  - (i) that does not comply with the Selwyn District Council requirements (as set out in the Selwyn District Plan or any consent notices or covenants registered against the computer register for the land), unless authorised by a resource consent;
  - (ii) that is higher than 1.8 metres above natural ground level at any point;
  - (iii) when it is between the front building façade of any dwelling on the land and any legal road or private right of way or shared access over which the land has legal access that is higher than 1 metre above the natural ground level;
  - (iv) which, if it is a fence on land which has two legal road frontages exceeds 1.8 metres on the secondary road boundary;
  - (v) any 1.8 metre fence on a secondary road boundary must not be located any closer than 6 metres from that boundary, unless otherwise approved by the Developer in writing.
- (l) Not call upon the developer to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the land and any adjoining land owned by the developer,

provided that this covenant will not continue for the benefit of any subsequent registered proprietor of such adjoining land.

- (m) Not call upon Selwyn District Council to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the land and any adjoining reserve or other land owned by Selwyn District Council.
- (n) Pay 50% of the reasonable cost of a fence erected by an adjoining owner on the common boundary between the adjoining owners land and the Covenantor's land if that adjoining owner has paid the full cost of erecting the fence. This clause shall not benefit the developer and may not be enforced against the developer.

### ***Building Timeframes and Crossings***

- (o) Ensure that:
  - (i) any building is completed within nine months of laying down the foundations for such building and no building once under construction shall be left without substantial work being carried out for a period exceeding 3 months;
  - (ii) entry and exit to and from the land during building is via a single entry/exit point on the land boundary which must be notified to and approved by the developer as part of the approval required under clause 3.1(h);
  - (iii) Any other requirements for the construction of the dwelling and associated landscaping which form part of the developer's approval under clause 3.1(h) are complied with by the Covenantor.

### ***Landscaping***

- (p) Prior to occupying the dwelling on the land, complete all landscaping in accordance with the plans approved by the developer under clause 3.1(h) of this land covenant, including completing the driveways, footpaths, lawns, gardens and planting of shrubs in the area in front of the dwelling on the land.

### ***Monitoring***

- (q) Allow the developer, its officers, employees or agents to enter onto the land at all reasonable times for the purposes of ensuring compliance with the covenants contained in this instrument and remedying any breaches thereof subject to the developer first giving 48 hours' prior written notice of its intention to enter on to the land. The developer shall not be responsible for any damage to the land or anything placed on the land as a result of the reasonable exercise of the developer's rights under this clause.

### ***Use of the Land***

- (r) Only use the Lot for residential owner-occupied purposes and must not use the Lot for commercial, trade, agricultural, horticultural, viticultural or institutional purposes or as any form of short stay residential accommodation (for example "Air BnB", hostel, lodge or boarding house). This clause however shall not prevent any Lot being used for home-based employment (including home stays) provided that all such use complies with the relevant district plan.
- (s) Not allow any intensive animal factory farming activities on any Lot nor:-
  - (i) Keep pigs on any Lot;
  - (ii) Keep roosters on any Lot;
  - (iii) Keep more than 6 hens on any Lot;

- (iv) Keep pigeons on any Lot.
- (t) Not allow any animal (including dogs and other cosmetic pets) to be kept in or about the Land or Building which is or is likely to cause a nuisance or annoyance to other occupiers in the Subdivision or to detract from the Subdivision as a whole. In particular, without otherwise limiting this restriction not to allow on or about the Land any dog which in whole or in part, resembles or appears to resemble the Pitt Bull Terrier, Rotweiler, or Doberman Pinscher, Japanese Akita, Japanese Tosa, Dogo Argentino or Brazilian Fila breeds.
- (u) Not allow any shelter or screening hedge on the Lot to exceed 3.0 metres in height.
- (v) Not allow any vegetation to grow which has the effect of shading a neighbouring property and causes detrimental effect.
- (w) Keep and maintain the Land in a neat and tidy condition at all times prior to the start of building on the land.
- (x) During the building process all rubbish must be securely contained, and all foundation excavations must be removed from the Lot. The building site must be kept in a tidy state at all times.
- (y) Not damage any kerb, grass berm, footpath, tree or shrub contained within any road, right of way or reserve and shall ensure that all contractors access the Land over the prescribed access driveway. If any damage occurs at or to the frontage of the Land or to any Land forming part of the shared access Lot, the Covenantor shall be responsible for the cost of rectifying any damage.
- (z) Keep and maintain the road and right of way frontage of the Land (including Landscaping) in a neat and tidy condition. "Frontage" means any boundary shared with the road or shared access Lot (as the case may be).

## **ENFORCEMENT**

4. The developer shall not be required or obligated to enforce all or any of the foregoing covenants, stipulations and restrictions, nor will the developer be liable to any other party for any breach thereof by any Covenantor.
5. If there should be any breach or non-observance on the Lot Owner's part of any of these Covenants and without prejudice to any other liability which the Lot Owner may have to the Developer and any person or persons having the benefit of those Covenants, the Lot Owner will, upon written demand be made by the Developer or any of the Lot Owners:
  - (a) pay to the person making such demand as liquidated damages the sum of \$100.00 per day for any such breach or non-observance of these Covenants contained in this Instrument continues after the date upon which written demand has been made; or
  - (b) repaint any Dwelling, Building, structure or improvement repaired or completed in breach of these Covenants; or
  - (c) remove or cause to be removed from the Property any Dwelling, garage, Building, fence or other structure erected or placed on the Property in breach for non-observance of the above Covenants; or
  - (d) replace any building materials used in breach of these Covenants.
6. The Covenantor covenants that the Covenantor will, at all times, indemnify the Covenantee from all proceedings, costs, claims and demands in respect of breaches by the Covenantor of any of the stipulations, restrictions and covenants in this instrument.

## GENERAL

7. Any requirement in this instrument to submit plans and specifications to the Developer, or obtain the Developer's approval, will cease to apply and be of no further effect from the date that a Code Compliance Certificate is issued for the first Dwelling to be built on the Lot if such Code Compliance Certificate relates to a Dwelling approved of by the Developer in accordance with this instrument (but without prejudice to the liability of any party for any breaches which have already occurred).
8. The remaining Covenants contained in this Instrument shall expire on and not be enforceable after the date falling 10 years from the date of this Instrument.
9. Without prejudice to clause 7, the covenants in this instrument will immediately cease to apply to any land (or part thereof) which:
  - 9.1. is intended to vest in the Crown or any territorial authority as a road or reserve; or
  - 9.2. is transferred to a network utility provider for the primary purpose of a utility lot,  
upon any survey plan relating to such vesting or utility lot being approved as to survey and being accepted for deposit by Land Information New Zealand.
10. Despite any other provision of this instrument, if the written consent of the developer is obtained to any action or omission, that action or omission will be deemed to not constitute a breach of any covenant within this instrument.