



View Instrument Details

Instrument No	13054156.16
Status	Registered
Lodged By	Plumtree, Kim Sheree
Date & Time Lodged	31 Oct 2024 08:06
Instrument Type	Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017

Affected Records of Title	Land District
1169076	North Auckland
1169077	North Auckland
1176472	North Auckland
1176473	North Auckland
1176474	North Auckland
1176475	North Auckland
1176476	North Auckland
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1176498	North Auckland
1176499	North Auckland
1176500	North Auckland
1176501	North Auckland

Annexure Schedule	Contains 8 Pages
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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

Covenantor Certifications

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 Gregory Neale Allen as Covenantor Representative on 24/10/2024 09:19 AM

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 Gregory Neale Allen as Covenantee Representative on 24/10/2024 09:20 AM

***** End of Report *****

Form 26

Covenant Instrument to note land covenant

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

Covenantor

FLETCHER RESIDENTIAL LIMITED

Covenantee

FLETCHER RESIDENTIAL 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) DP 600718	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land covenant	Lots 2 to 33 (inclusive)	Lots 2 to 33 (inclusive) DP 600718 (RTs 1169076, 1169077, 1176472 to 1176501 (inclusive))	Lots 2 to 33 (inclusive) DP 600718 (RTs 1169076, 1169077, 1176472 to 1176501 (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].

Annexure Schedule

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Covenant Instrument to note land covenant

*Continue in additional Annexure Schedule(s), if required***Annexure Schedule****1. Covenant**

The Covenantor covenants and agrees with the intention to bind itself and future owners of the Burdened Lands for the benefit of the Covenantee and future owners of the Benefited Lands that the Covenantor will at times observe and perform the restrictions contained in the First Schedule (**Covenants**) in respect of the Covenant Area to the intent that each of the restrictions will be forever appurtenant to the Benefited Lands.

2. Breach of Covenants

The Covenantor and Covenantee agree that if the Covenantor breaches or fails to observe part of any of the Covenants, and without prejudice to any other liability which the Covenantor may have to other parties and any person or persons having the benefit of the Covenants, the Covenantor, upon written demand being made by the other parties or any of the registered owners of the Benefited Lands and the Burdened Lands, will:

2.1. Remedy: immediately remedy the breach or failure to observe part of any of the covenants, including (where applicable) without limitation:

2.1.1. remove or cause to be removed from a Burdened Land any second hand or used material, fence, building or structure erected or placed on a Burdened Land in breach or non-observance of the Covenants; or

2.1.2. replace any building materials used in breach or non-observance of the Covenants; and

2.2. Damages: pay to the person making such demand as liquidated damages the sum of \$350.00 (three hundred and fifty dollars) per day for every day that such breach or non-observance continues after the date upon which written demand has been made.

3. Limited Liability

The Covenantor and its successors in title will only be liable for breaches of the Covenants that occur while they are registered as owner of the Benefited Land and Burdened Land.

4. Resolution of Disputes

4.1. Disputes: If any dispute, difference or question arises between the parties about:

4.1.1. the interpretation of this instrument;

4.1.2. anything contained in or arising out of this instrument;

4.1.3. the rights, liabilities or duties of the Covenantor or the Covenantee; or

*Insert instrument type***Covenant Instrument to note land covenant**

4.1.4. anything else relating to the relationship of the Covenantor and the Covenantee under this instrument (including claims in tort as well as in contract);

the parties may refer that matter to informal mediation, if all parties agree, having regard to the nature of the dispute or difference between them and the potential delays and costs which might arise if that matter is referred to arbitration.

4.2. Appointment of Mediator: The parties must try to agree on the mediator, who must be a senior solicitor or barrister practising in either Auckland or the district in which the Benefited Lands are situated. If they cannot agree, the President of the branch of the New Zealand Law Society closest to where the Benefited Lands are situated (or his or her nominee) will nominate the mediator on any party's application. The mediator's decision will be final and binding on all parties.

4.3. Arbitration: If the parties do not agree to refer the dispute, difference or question to mediation under clause 4.2 within seven days of that dispute, difference or question arising, then it will be referred to the arbitration of a single arbitrator under the Arbitration Act 1996.

4.4. Appointment of Arbitrator: The parties must try to agree on the arbitrator. If the parties cannot agree, the President of the branch of the New Zealand Law Society closest to where the Benefited Lands are situated (or his or her nominee) will appoint the arbitrator on either party's application.

4.5. Action at Law: The parties must go to arbitration under this clause before they can begin any action at law (other than an application for injunctive relief).

5. Notices

5.1. Service of Notices: Any notice of document required or authorised to be given under this instrument may be delivered or sent as follows:

5.1.1. in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or

5.1.2. by registered post addressed to the last known postal address of the party intended to be served.

5.2. Time of Service: Any notice or other document will be treated as given or served and received by the other party:

5.2.1. when delivered by hand to that other party; or

5.2.2. three days after being posted by registered post with postage prepaid to the last known postal address of the party intended to be served.

5.3. Signature of Notices: Any notice or document to be served or given may be signed by any attorney, officer, employee or solicitor for the party serving or giving the notice or by any other person authorised by that party.

5.4. Addresses for Notices: For the purposes of this clause, and subject to subsequent amendment by any party by written notice to the other parties, the address for service of notices of each party is the residential address of each of the respective Benefited Lands.

*Insert instrument type***Covenant Instrument to note land covenant****FIRST SCHEDULE****1. Covenants:** The Covenantor must:

- 1.1.** only use or permit the Burdened Land to be used for residential purposes (including an integrated residential development as defined in the Auckland Unitary Plan) and not for a Boarding House or any trading, industrial or commercial purposes, but any use of a residential dwelling for a home enterprise use (other than as a Boarding House), that is permitted by the district plan of the local authority having jurisdiction, will not be a breach of the provisions of this covenant;
- 1.2.** not permit the parking of:
 - 1.2.1.** any vehicles on the front lawn or berm;
 - 1.2.2.** trucks or any large commercial vehicles (with a gross vehicle mass of more than 2000 kg) on or adjoining the Burdened Land or Benefited Land other than for delivery purposes; and
 - 1.2.3.** any boats, trailers, caravans or mobile homes anywhere on the Burdened Land;
- 1.3.** not permit any vehicle, equipment, machinery, rubbish or waste material (organic or inorganic) that is unsightly, or likely to become a nuisance to the owners of any Benefited Land, to be or remain on the Burdened Land for more than seven days;
- 1.4.** keep the Burdened Land, the landscaping on the Burdened Land and the berm in a neat, tidy and well maintained condition free of weeds and rubbish and immediately replace any dead, diseased or damaged landscaping with trees or plants of a similar species;
- 1.5.** keep and maintain an established streetscape;
- 1.6.** store rubbish bins in a place that is fully screened and not visible from the road;
- 1.7.** not erect or place on the Burdened Land any caravan, mobile home or other temporary accommodation, hut or shed for permanent or temporary use of any kind except as follows:
 - 1.7.1.** the Covenantor may erect a garden shed on the Burdened Land provided that such garden shed must not be erected in the Front Courtyard, must not be visible from the street or access way, must not be more than 2 metres in height or exceed 10m² in floor area and must constitute exempt work in terms of Schedule 1 of the Building Act 2004;
- 1.8.** not erect or cause to be erected:
 - 1.8.1.** any Satellite Dish, clothesline, garden shed, gas cylinder or bottle, air-conditioning unit or similar appliance in the Front Courtyard of the Burdened Land;

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*Insert instrument type***Covenant Instrument to note land covenant**

- 1.8.2. any Satellite Dish greater than one metre in diameter anywhere else on the Burdened Land; nor
- 1.8.3. any "for sale" or "for let" advertisement, sign or hoarding exceeding 1.2m² in area;
- 1.9. as far as reasonably practicable, ensure that any Satellite Dish, clothesline, garden shed, gas cylinder or bottle, air-conditioning unit or similar appliance is erected in a location where it is not visible from the street or access way;
- 1.10. not erect any solar panels on the roof of the dwelling unless such solar panels are integrated with the roof design and colour and if visible from the road they are sympathetic to the house design and the visual amenity of the neighbourhood;
- 1.11. not erect or cause to be erected:
 - 1.11.1.any building, structure or other improvement in the Front Courtyard other than a free standing carport or otherwise in accordance with clause 2 of this First Schedule; nor
 - 1.11.2.any side boundary or rear boundary fence or fences that is greater than 1.8 metres in height measured vertically from the Finished Ground Level at the relevant point on the Burdened Land where the fence is erected;
- 1.12. only alter the:
 - 1.12.1.colour or exterior appearance of the dwelling; or
 - 1.12.2.landscaping,

on the Burdened Land in a way which is permitted by the relevant authority resource consent conditions applying to the Burdened Land provided that:

 - 1.12.3.if a dwelling shares a common wall or walls with any adjoining property, the Covenantor will only be entitled to paint the exterior of the residential dwelling with the exact same colour with which the original dwelling was originally painted; and
 - 1.12.4.the obligations in clauses 1.4 and 1.5 of this First Schedule will apply in relation to any landscaping;
- 1.13. not materially alter or replace, or permit to be materially altered or replaced, the location, dimensions, materials or appearance of any roof, fence or boundary wall other than where any replacement roof, fence or boundary wall is in keeping with the location, dimensions, materials and appearance of the roof, fence or boundary wall erected on the Burdened Land at the date of registration of this instrument and does not block the view of the dwelling from the road;
- 1.14. except for where a Terraced Dwelling has been constructed on the Burdened Land, not erect any fence on either the front boundary of the Burdened Land with the road or on any part of the Burdened Land that is in the Front Courtyard;
- 1.15. except as required by clause 1.4 of this First Schedule, not plant any shrubs, trees or other vegetation:

*Insert instrument type***Covenant Instrument to note land covenant**

1.15.1. which prevent any owner of any adjoining property from exercising any easement rights registered on the Burdened Land; or

1.15.2. on the Front Courtyard of a height greater than five metres above the Finished Ground Level at the relevant point on the Burdened Land, or permit any such shrub, tree or other vegetation planted by them on the Burdened Land to grow to a height greater than five metres above the Finished Ground Level at the relevant point on the Burdened Land;

1.16. keep and maintain the exterior of any building and any boundary fence or wall located on the Burdened Land to a good standard of repair and condition;

1.17. if any boundary fence or wall is subjected to any graffiti, damaged, destroyed or removed, remove any such graffiti, replace, restore or repair such boundary fence or wall using the same or equivalent materials as the original boundary fence or wall and dimensions and in substantially the same location;

1.18. not install any exterior lighting unless it is designed or the lighting fixtures have covers or reflectors to direct light to the ground and shield the light sources to avoid glare and light pollution to any Benefited Land; and

1.19. not bring onto, raise, breed or keep any animal, livestock or poultry on the Burdened Land other than dogs that are registered with the relevant authority, cats or other small domestic animals.

2. Exceptions: The following exceptions apply to the covenants in clause 1 of this First Schedule:

2.1. Any building, structure or other improvement that is detached from the dwelling, and was constructed or placed, or permitted to be constructed or placed, on any Burdened Land by Fletcher Residential Limited as part of its original development of the Burdened Land, will not be subject to the covenants in clause 1.11.1 as long as such building, structure or improvement is compliant with all necessary territorial authority consents, building consents, and the Land Transfer Act.

2.2. Any Burdened Land that is a corner lot, and any Burdened Land specifically requiring living courts or private fencing or hedging in their Front Courtyard, will be exempt from the restrictions in clauses 1.11, 1.14 and 1.15 so that those Burdened Lands may have screen fencing or hedging for living court requirements or privacy requirements, or entrance walls. That screen fencing, hedging or entrance walls will be provided by Fletcher Residential Limited as Covenantor as part of the development of the Burdened Land and will not be materially altered, extended or changed by any subsequent registered owner from that provided by Fletcher Residential Limited.

3. Definitions: For the purposes of the covenants in this First Schedule, the following definitions will apply:

3.1. Boarding House means a dwelling in which board or lodging is provided for reward or payment for three or more boarders or lodgers;

3.2. erect means place, build, erect, situate or construct and **erected** means placed, built, erected, situated or constructed;

*Insert instrument type***Covenant Instrument to note land covenant**

- 3.3. Finished Ground Level** means the ground level of the Burdened Land at the time a separate freehold record of title issues for the Burdened Land;
- 3.4. Front Courtyard** means that part of the Burdened Land enclosed within a line running from side boundary to side boundary at that point on the Burdened Land at the front of the residential dwelling erected on the Burdened Land and extending forward of the residential dwelling to either:
- 3.4.1.** the front boundary of the Burdened Land with the road where the Burdened Land directly adjoins the road; or
- 3.4.2.** the front boundary of the Burdened Land with the common owned access way or the right of way if the Burdened Land takes its access from the road by either a common owned access way or a right of way,
- for the full width of the Burdened Land; and
- 3.5. Satellite Dish** means any satellite dish or other communications dish, device or aerial.
- 3.6. Terraced Dwelling** means any dwelling that shares a party wall with an adjoining dwelling.