

View Instrument Details



Instrument No 12118122.9
Status Registered
Date & Time Lodged 30 August 2021 13:43
Lodged By Needham, Michelle Rose
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
983918	Canterbury
983919	Canterbury
983920	Canterbury
983921	Canterbury
983922	Canterbury

Annexure Schedule Contains 3 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 Michelle Rose Needham as Covenantor Representative on 30/08/2021 12:28 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 Michelle Rose Needham as Covenantee Representative on 30/08/2021 12:28 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

AWLY DEVELOPMENTS LIMITED

Covenantee

AWLY DEVELOPMENTS 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	All of the Burdened Land	Lots 1 to 5 Deposited Plan 559202 (RT's 983918-983922)	Lots 1 to 5 Deposited Plan 559202 (RT's 983918-983922)

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

Insert instrument type

Covenant

Continue in additional Annexure Schedule, if required

1. Background

- 1.1 The Burdened Land and the Benefited Land comprise a rural-residential housing development (**Development**).
- 1.2 The Burdened Land and the Benefited Land shall be subject to the provisions of this Instrument to ensure that the Development is developed and administered in a co-ordinated and harmonious manner and to conserve and enhance the character, value and amenity values of the Development.
- 1.3 The purposes of this Instrument are to require the Covenantor to be bound by the covenants under this Instrument and for the Covenantee to receive the benefit of the covenants under this Instrument.
- 1.4 This Instrument shall be and remain registered against the Records of Title to the Burdened Land and the Benefited Land so that:
 - 1.4.1 the Covenantor (and/or any occupier or lessee) for the time being of the Burdened Land shall be bound by the provisions of this Instrument; and
 - 1.4.2 the Covenantee (and/or any occupier or lessee) for the time being of any Benefited Land can enforce the observance of the provisions of this Instrument by any Covenantor and/or occupier or lessee for the time being of any of the Burdened Land, whether in equity or otherwise.

2. General Covenants

- 2.1 The Covenantor covenants and agrees:
 - 2.1.1 to observe and perform all the Covenants at all times; and
 - 2.1.2 that the Covenants shall run with and bind the Burdened Land for the benefit of the Benefited Land.
- 2.2 The Covenantor covenants and agrees:
 - 2.2.1 to pay the Covenantee's legal costs of and incidental to the enforcement or attempted enforcement of the Covenantee's rights, remedies and powers under this Instrument; and
 - 2.2.2 to indemnify the Covenantee against all claims and proceedings arising out of a breach by the Covenantor of any of its obligations set out in this Instrument.

3. Covenants

- 3.1 *Buildings:* The Covenantor covenants and agrees that it shall not:
 - 3.1.1 Erect a building or structure:
 - (a) That is a private dwelling of less than 200 square metres excluding the garage or is not a building or structure of a kind normally associated with a private dwelling on land of a similar size as the Burdened Land. For the avoidance of doubt, a private dwelling may not be used for commercial or business purposes; or
 - (b) That is a temporary dwelling, hut or caravan that is occupied or proposed to be occupied whilst on the Burdened Land; or

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(c) That is a relocatable house.

3.2 *Maintenance:* The Covenantor covenants and agrees that it shall:

3.2.1 Keep all shelterbelt trees on all boundaries of the Burdened Land in good order and condition;

3.2.2 Ensure that all shelterbelt trees are regularly topped to limit the trees to a maximum height of five (5) metres;

3.2.3 Keep any drains clean, in good order and condition and clear of obstructions;

3.2.4 Keep its gateway/entranceway in good order and condition; and

3.2.5 Keep its right of way, grass and other plants, and structures on or under it in good order and condition.

3.3 *Use:* The Covenantor covenants and agrees that it shall not:

3.3.1 Use the Burdened Land for pig farming, poultry farming, factory farming, commercial dog kennels or a commercial pet centre, contracting, trucking or freight business or for anything which causes nuisance or annoyance to the neighbouring occupiers (in the unfettered opinion of the Covenantee); or

3.3.2 Engage in any activity which reasonably detracts from the nature and character of the environment; or

3.3.3 Have or use any overhead wires for electricity or telephonic communications (excepting any existing overhead power lines and power poles, if any); or

3.3.4 Allow storage containers to remain on the Burdened Land; or

3.3.5 Leave or allow to be left on the Burdened Land any vehicle, caravan, rubbish or other thing that unreasonably detracts from the appearance of the Development.

4. **General**

4.1 The illegality, invalidity or unenforceability of a provision of this Instrument under any law will not effect the legality, validity or enforceability of that provision under any other law, or the legality, validity or enforceability of any other provision of this Instrument.

4.2 No failure to exercise nor a delay in exercising any right or remedy available to a party will constitute a waiver by that party of that or any other right or remedy available to that party under this Instrument or at law.

4.3 The liability of a Covenantor under this Instrument shall enure only for such period as that Covenantor is the registered proprietor of the Burdened Land or any part of the Burdened Land to the intent that no Covenantor shall be liable for breaches committed by that Covenantor's predecessors or successors in title but that Covenantor shall be and remain liable for all breaches committed in the period during which that Covenantor owns any part of the Burdened Land.

4.4 If the Covenantor breaches any of these covenants then without prejudice to any other cause of action that the Covenantee may take, the Covenantor shall, upon demand in writing being made by the Covenantee, pay to the Covenantee as liquidated damages, a sum equating to any loss suffered by the Covenantee as a result of the Covenantor's breach of these covenants, together with the Covenantee's costs of enforcing these covenants on a solicitor client basis.