

View Instrument Details



Instrument No 11269487.9
Status Registered
Date & Time Lodged 25 January 2019 16:04
Lodged By Fitchett, Dominic Inglis William
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
854931	Canterbury
854932	Canterbury
854933	Canterbury
854934	Canterbury
854935	Canterbury
854936	Canterbury
854937	Canterbury
854938	Canterbury
854939	Canterbury
854940	Canterbury
854941	Canterbury
854942	Canterbury
854943	Canterbury
854944	Canterbury
854945	Canterbury
854946	Canterbury
854947	Canterbury
854948	Canterbury

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 Dominic Inglis William Fitchett as Covenantor Representative on 16/01/2019 05:22 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

Covenantee Certifications

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 Dominic Inglis William Fitchett as Covenantee Representative on 16/01/2019 05:22 PM

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

This approved format may be used for lodgement as an electronic instrument under the Land Transfer Act 2017

Form 26

Covenant Instrument to note land covenant

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

Covenantor

CDL LAND NEW ZEALAND LIMITED

Covenantee

CDL LAND NEW ZEALAND 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 Covenants	DP 525627	Lots 421 – 424 on DP 525627 (854931 – 854934)	Lots 421 – 438 on DP 525627 (854931 – 854948)
Land Covenants	DP 525627	Lots 421 – 424 on DP 525627 (854931 – 854934)	In gross

Covenant rights and powers (including terms, covenants and conditions)

The provisions applying to the specified covenants are those set out in:

{Memorandum number _____, registered under section 209 of the Land Transfer Act 2017}.

The Annexure Schedule.

Insert instrument type

Land Covenants

Continue in additional Annexure Schedule, if required

Scope and definitions

- 1 The Grantor hereby covenants and agrees with the Grantee in the manner set out below so that such covenants shall:
 - (a) Burden and run with the burdened land referred to in Schedule A; and
 - (b) Be for the benefit of and appurtenant to the benefited land referred to in Schedule A and for the benefit of the Covenantee in gross referred to in Schedule A.

- 2 For the purposes of this instrument the following terms have the following meaning (unless the context otherwise requires):
 - (a) "**DB Developer**" means the registered proprietor of any Land that has not been Subdivided since the Developer ceased to be the registered proprietor of that Land. By way of explanation, usually the DB Developer will have purchased the Land from the Developer, with the intention of building a development block on the Land, subdividing the Land, and selling the Subdivided parts of the Land to DB Purchasers. The Developer cannot be a DB Developer;
 - (b) "**DB Purchaser**" means the registered proprietor or proprietors of any part of the Land, after the Land (as it is described in Schedule A) has been Subdivided.
 - (c) "**Developer**" means CDL Land New Zealand Limited or its nominee, or if CDL Land New Zealand Limited ceases to exist and there is no nominee, means any director of CDL Land New Zealand Limited immediately before that company ceased to exist;
 - (d) "**fence**" includes a wall;
 - (e) "**Land**" means the burdened land described in Schedule A; and
 - (f) "**Subdivide**" means subdivide or subdivided within the meaning of the Resource Management Act 1991 or any modification, amendment or re-enactment of it.

Land covenants that apply only to the DB Developer

- 3 If the Grantor is the DB Developer for the Land it must in relation to that Land:

Design approval

- (a) Not do any work or permit any work for the erection of buildings, accessory buildings, landscaping, fences, driveways, or other improvements (and this shall also include exterior finishes and excavation of foundations upon the Land) unless as part of a development block for which the plans and specifications and all other details of construction, finish and location as the Developer at the Developer's absolute discretion may require, have first been submitted to the Developer and have received the Developer's written approval.

Building

- (b) Ensure that:

Insert instrument type

Land Covenants

Continue in additional Annexure Schedule, if required

- (i) the laying down of foundations for building in accordance with the Developer's written approval pursuant to clause 3(a) is started within 6 months of the Developer providing its approval under clause 3(a);
- (ii) any building, driveway and landscaping on the Land is completed within 12 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;
- (iii) entry and exit to and from the Land during building is via a single entry/exit point on the Land boundary, of a maximum 4 metre width, which must be notified to and approved by the Developer as part of the approval required under clause 3(a);
- (iv) any other requirements for the building phase which form part of the Developer's approval under clause 3(a) are complied with by the Grantor;
- (v) any driveway on the Land is formed, prior to occupation of the dwelling, to comply with the requirements of the Christchurch City Council District Plan including sealing the driveway;

Subdivision

- (c) Not Subdivide the Land except as part of a development block approved by the Developer;
- (d) Not amalgamate the title to the Land (or any part of it) with another title.

Land covenants that apply only to DB Purchasers

- 4 If the Grantor is a DB Purchaser of the Land (or any part of it) it must in relation to that Land (or that part) not Subdivide the Land nor amalgamate the title to the Land with another title.

Land covenants that apply to DB Developers and DB Purchasers

- 5 The Grantor must in relation to any Land of which it is the registered proprietor:

No interference with DB Developers

- (a) Not at any time oppose, obstruct or object in any way, or provide support in any form to any person in opposition to, any planning proposal by any DB Developer in respect of the subdivision and sale of Land owned by the DB Developer.
- (b) Not make, lodge, be party to or finance any request, complaint, submission, application, appeal or other proceeding which is designed, intended or likely to limit, prohibit or restrict the completion (in accordance with these covenants) of the subdivision and sale of the Land owned by the DB Developer.
- (c) Not bring any proceedings in any Court or tribunal for damages, negligence, nuisance, trespass or interference or otherwise arising as a result of the completion of the subdivision and sale of the Land owned by the DB Developer.

Insert instrument type

Land Covenants

Continue in additional Annexure Schedule, if required

- (d) If required, on request by a DB Developer, provide affected party approval to any planning application referred to in clause 5(a) in accordance with the provisions of section 95D(e) Resource Management Act 1991.

No interference with development of Prestons Park Subdivision

- (e) Clauses 5(a) to 5(d) inclusive will also apply (with all necessary modifications) to the development, subdivision and sale by the Developer of any land owned by the Developer within the Prestons Park subdivision.
- (f) The Grantor, in relation to any Land owned by the Grantor, acknowledges that Prestons Park has or may in future have reserves which may contain playground equipment, and agrees not to complain about the existence, layout or reasonable use of any such playground within Prestons Park, to the Christchurch City Council or the Developer or any DB Developer. Clauses 5(a) to 5(d) inclusive will apply (with all necessary modifications) to the existence, layout and reasonable use of the playgrounds.

Nuisance

- (g) Not allow any animal to be kept on or about the Land which is likely to cause a nuisance or annoyance to occupiers of other Land, and in particular without otherwise limiting this restriction, not to keep on or about the Land any dog which in whole or part appears to be a Pit Bull Terrier, Rottweiler or Doberman Pinscher.
- (h) Not use the Land in any way which in the reasonable opinion of the Developer detrimentally affects the amenities of the neighbourhood including permitting noise to escape from the Land which is likely to cause offense or a nuisance to occupiers of other Land.

Show Home

- (i) Not allow any building on the Land to be used as a show home without the written consent of the Developer (such consent to be at the Developer's absolute discretion and subject to such conditions as the Developer considers necessary). Any consent given by the Developer under this clause may be limited as to time.

Fencing and fencing contributions

- (j) Ensure that all internal boundary fences are erected in a tradesman like manner using appropriate materials.
- (k) Without prejudice to clause 3(a), not erect or permit to be erected on the Land a fence:
- (i) Which is made out of corrugated iron or post and wire; or
 - (ii) Which does not comply with Christchurch City Council requirements (such as, for example, rule 14.5.2.10 in the District Plan) unless authorised by a resource consent; or

Insert instrument type

Land Covenants

Continue in additional Annexure Schedule, if required

- (iii) Which, if it is an internal boundary fence, is higher than 1.2 metres above the natural ground level at any point within 2 metres of the road boundary (except where approval has been granted by the Developer to erect a front fence within the building setback on a corner lot); or
 - (iv) Which, if it is a fence between the Land and an adjoining reserve, is less than 80% open if it is more than 1.2 metres in height above the natural ground level; or
 - (v) Which is higher than 1.8 metres above natural ground level, at any point (subject to clauses 5(k)(ii) & (iii)); or
 - (vi) Without first receiving the prior written consent of the Developer to the plans, specifications, details of construction, finish and location of the fence.
- (l) Not call upon Christchurch City 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 Christchurch City Council;
 - (m) 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 endure for the benefit of any subsequent registered proprietor of any such adjoining Land. This clause 5(m) overrides clause 5(n);
 - (n) Pay 50% of the reasonable cost of a Qualifying Fence to any neighbour that erected the Qualifying Fence, if that neighbour has not previously received a contribution towards the cost of the Qualifying Fence in accordance with this clause 5(n). A **"Qualifying Fence"** means a fence on a shared boundary between the Grantor's Land and adjoining Land owned by the neighbour. However this clause does not benefit or need to be complied with by the Developer or the DB Developer.
 - (o) If the Land is adjoining a reserve, maintain the fence between the Land and the adjoining reserve and if such fence is wholly or partly destroyed, replace with a new fence that complies with clause 3(h) and has Christchurch City Council approval.
- Tidy appearance*
- (p) Not permit a temporary building or structure to be erected on the Land except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Land upon completion of the work;
 - (q) Keep the Land in a neat and tidy condition and not permit excessive growth of grass (beyond 100mm in length);
 - (r) Maintain all road reserves adjoining the Land in a neat and tidy condition and immediately repair (to the satisfaction of the Developer) any damage to the footpath and berms adjoining the Land caused by the Grantor [DB Developer and DB Purchaser] or its contractors, employees, agents and invitees;

Insert instrument type

Land Covenants

Continue in additional Annexure Schedule, if required

- (s) Not cut, trim, damage, remove or relocate any tree, shrub or plant on the road reserve without the prior approval of the Developer and Christchurch City Council;

Monitoring

- (t) Not prevent the Developer, its officers, employees or agents from entering onto the Land at all reasonable times for the purposes of ensuring compliance with the foregoing covenants and remedying any breaches thereof subject to the Developer first giving at least 48 hours' prior written notice of its intention to enter on to the Land. If the Developer enters on to the Land it shall not be responsible for any damage occasioned to the Land or anything placed thereon as a result of a reasonable exercise by the Developer of its powers.

Aerials etc

- (u) Not install or attach any accessory (including but not limited to satellite dishes, television aerials, and solar panels) on the Land, unless they are constructed in such a way as to be discreetly integrated with the design of buildings on the Land so that they are not highly visible from any road, thoroughfare or any other Land;
- (v) Fully encase any chimney in materials and in a manner approved by the Developer in writing.
- (w) Ensure that any garden shed on the land is adequately screened from view from any road, thoroughfare, reserve or any other land by fencing or landscaping approved by the Developer in writing.

Enforcement

- 6 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 Grantor.
- 7 If there should be any breach or non-observance of any of the foregoing covenants then without prejudice to any other liability which the Grantor may have to any Grantee, the Grantor will upon written demand being made by any Grantee:
- (a) Pay to any Grantee making such demand as liquidated damages the sum of \$250.00 (Two 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, provided that if more than one person is making such demand then that sum shall be shared between those persons; and
- (b) If applicable, remove or cause to be removed from the Grantor's Land any second hand or used dwelling, garage, carport, building or other structure erected or placed on the Grantor's Land in breach or non-observance of the foregoing covenants; and
- (c) If applicable, replace any building materials used or permitted to be used in breach or non-observance of the foregoing covenants.

Insert instrument type

Land Covenants

Continue in additional Annexure Schedule, if required

8 The Grantor covenants that it will at all times indemnify the Grantee from all proceedings, costs, claims and demands in respect of breaches by the Grantor of any of the stipulations, restrictions and covenants in this instrument.

General

9 Any requirement in this instrument to submit plans and specifications to the Developer, or to obtain the Developer's approval, will cease to apply 7 years after the date of this instrument (but without prejudice to the liability of any party for any breaches which have already occurred).

10 Without prejudice to clause 9, the covenants in this instrument will immediately cease to apply to any Land (or part thereof) which is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

11 Subject to clause 5(l), but 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.