

View Instrument Details



Instrument No 11771416.10
Status Registered
Date & Time Lodged 23 November 2020 08:57
Lodged By Gedye, Nicola Marie
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
947385	Wellington
947386	Wellington
947389	Wellington
947390	Wellington
947391	Wellington
947392	Wellington
947394	Wellington
947395	Wellington
947397	Wellington
947398	Wellington
947399	Wellington
947400	Wellington
947401	Wellington
947402	Wellington
947403	Wellington
947404	Wellington
947406	Wellington
947409	Wellington
947410	Wellington
947411	Wellington
947412	Wellington
947413	Wellington
947414	Wellington
947415	Wellington
947416	Wellington
947417	Wellington
947418	Wellington
947419	Wellington
947420	Wellington
947421	Wellington
947422	Wellington

Annexure Schedule Contains 6 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 Simon Christopher Badger as Covenantor Representative on 03/12/2020 03:11 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 Simon Christopher Badger as Covenantee Representative on 03/12/2020 03:12 PM

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

Covenant Instrument to note land covenant

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

Covenantor *Surname(s) must be underlined or in CAPITALS*

Aspen 2004 Limited

Covenantee *Surname(s) must be underlined or in CAPITALS*

Aspen 2004 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
Restrictive covenants		947385, 947386 947389, 947390 947391, 947392 947394, 947395 947397, 947398 947399, 947401 947400, 947402 947403, 947404 947406, 947409 947410, 947411 947412, 947413 947414, 947415 947416, 947417 947418, 947419 947420, 947421 947422	947385, 947386 947389, 947390 947391, 947392 947394, 947395 947397, 947398 947399, 947401 947400, 947402 947403, 947404 947406, 947409 947410, 947411 947412, 947413 947414, 947415 947416, 947417 947418, 947419 947420, 947421 947422

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 Annexure Schedule 1.
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ANNEXURE SCHEDULE 1

RESTRICTIVE COVENANT

1.0 **THE** Covenantor acknowledges and agrees that the Burdened Land forms part of a development which is intended to be established as a modern and well-designed subdivision ("the Subdivision") and that it is desirable that supervision and control be exercised by Aspen 2004 Limited ("Aspen") (and as otherwise set out herein) for the protection, and in the best interests, of the Covenantees in relation to the nature and type of construction to be permitted in the Subdivision. In recognition of these objectives the Covenantor covenants as follows:

1.1 Not to:

- (i) apply to the Kapiti District Council for a building consent; nor to
- (ii) proceed with the erection or construction on the Burdened Land of any building

unless the prior written approval of Aspen has been obtained to preliminary plans, drawn to scale, showing:

- (a) the siting of the building; and
- (b) room location; and
- (c) elevations and materials; and
- (d) location of driveways and grassed areas forward of the building; and
- (e) materials and products to be used in construction of the building.

Provided that such written approval shall not be unreasonably withheld.

- 1.2 Not to make any change to the plans and specifications of the exterior design or appearance of the building approved by Aspen pursuant to clause 1.1 unless Aspen has first approved such changes in writing.
- 1.3 That, prior to commencement of the construction of any dwelling, the Burdened Land shall be properly maintained so that the grass is kept short and weeds are minimal.
- 1.4 Not to erect any building other than a new residential home and not to permit or allow the removal onto the Burdened Land of any pre-built transportable or relocatable house nor any existing house which has been previously lived in unless accepted by Aspen.
- 1.5 Not to erect any more than one single storey dwelling house on any Burdened Land. Aspen may, at its sole discretion, grant an exemption from this restriction in respect to Lots 1, 2, 12, 13, 24, 27, 28, 31, 32, 34, 35 and 36.
- 1.6 That, except for Lots 1, 10, 14, and 15, any dwelling house built on the Burdened Land shall have a floor area greater than 160m². The minimum floor area for Lots 1, 10, 14, and 15 shall be 130m². The floor area measurements shall be exclusive of any freestanding garage, carports, decking, breezeways and roof overhang.
- 1.7 To construct any dwelling house with a minimum of 70% of the non-glazed exterior cladding consisting of any of the following materials: kiln fired or concrete brick, stucco textured finish, stone or timber, pre-finished metal, timber

or fibre cement weatherboard construction, or any other exterior cladding material which has architectural merit. Any dwelling with an exterior finish in the form of flat cladding, concrete block, poured concrete, or similar shall have the surface textured in such a manner as to fully cover the base material.

- 1.8 That if the Burdened Land contains or comprises any separate garage or other outbuilding, such garage or other outbuilding must be of a similar design and construction (including materials used in construction) to the dwelling on the Burdened Land.
- 1.9 Not to subdivide any section or complete any boundary adjustment within the Subdivision without the prior written approval of Aspen.
- 1.10 To complete all building works within 8 months from the commencement of the laying down the foundations for such building works ("the Commencement Date") and within 12 months of laying down the foundations to complete all ancillary works such as fencing and landscaping **AND FURTHER** within 12 months of the Commencement Date to construct in a proper and tradesmanlike manner a driveway or vehicle access in a permanent continuous surfacing of concrete, concrete block, brick paving, or tar-sealing.
- 1.11 Once construction has been substantially completed not to bring or allow to remain on the Burdened Land any temporary dwelling nor permit any caravan, trade vehicle or other equipment or materials or machinery to be regularly located on the Burdened Land or any road in the Subdivision unless garaged or screened so as to preserve the amenities of the neighbourhood and to prevent noise likely to cause offence to residents in the subdivision. Not to permit any recreational or heavy commercial vehicle, or trailer to be regularly located on the street or footpath or anywhere in the Subdivision.
- 1.12 Not to permit the land to be occupied or used as a residence unless the buildings on the Burdened Land have been completed in accordance with this Covenant and any local authority building consent.
- 1.13 Not to require Kapiti District Council or Aspen to maintain or contribute towards the cost of erection or maintenance of any fence along any reserve or neighbouring boundaries.
- 1.14 (a) Not to allow any fence or tree shelter to be erected or planted on the front boundary nor on a side boundary within 2 metres of the front boundary of the lot. A side boundary fence must not exceed 1.2 metres in height from the point 2 metres from the front boundary to a point 3 metres ahead of the dwelling house. The balance of the side boundary fence and any rear boundary fence must not exceed 1.8 metres in height.
- (b) Not to allow any fence to be constructed of corrugated iron or second hand material.
- 1.15 Not to display any sign or hoarding of a commercial nature on any part of the Burdened Land or building thereon.
- 1.16 Not to construct any clothesline or letterbox except such clothesline or letterbox as maybe aesthetically sensitive in terms of design and location, siting any clothesline in such a way as to not be highly visible from the street and siting any letterbox adjacent to but not in the road reserve.
- 1.17 To enhance the quality and appearance of any attachments to buildings on the Burdened Land (including but not necessarily limited to television antenna and solar hot water panels) and to construct such attachments to be discreetly integrated with such dwelling so they are not highly visible from the street, thoroughfare or adjacent properties.

- 1.18 To ensure that in any construction, due allowance is made for adequate current and future drainage of excess storm water from the Burdened Land, the Covenantor remaining responsible for all costs, claims, or demands for any remedial action undertaken for any breach hereof.
- 1.19 To re-instate, replace, or be responsible for all costs arising from damage to the landscape, roading, footpaths, kerbs, concrete or other structures in the Subdivision arising from the Covenantor's use of the Burdened Land including indirectly through the Covenantor's agents or invitees.
- 1.20 Not to use the Burdened Land or any dwelling house or construction on that Burdened Land as a church or a hall or a business, nor as a rental property by a Government Department or other Government Agency.
- 1.21 To ensure that any dwelling constructed on the property with a separate living area (granny flat) complies with the main house parameters and must not look like two dwelling houses.
- 1.22 To ensure that any water tank, pump station, or above-ground water supply facility must be placed away from the main street view.
- 1.23 Not to bring in, raise, or breed any livestock or poultry, and to control any dogs or cats so as not to disturb neighbours.
- 2.0 If there shall be any breach or non-observance of any of the Covenants then, without prejudice to any other rights contained herein, any Covenantee may give notice to an offending Covenantor to remedy such breach or non-observance. Furthermore, the Covenantor shall on written demand by the Covenantee (or any or all of them);
 - 2.1 Pay to the Covenantee giving such demand as liquidated damages the sum (in total) of \$400 per day for every day that such breach or non-observance continues after the date upon which written demand has been given; and
 - 2.2 Remove or cause to be removed from the Burdened Land any building or fence used, erected, or repaired in breach or non-observance of the Covenants; and
 - 2.3 Replace any building material used or permitted to be used in breach or non-observance of the Covenants; and
 - 2.4 Otherwise to take all steps necessary to remedy the breach or non-observance of the covenants if it is capable of a remedy.
 - 2.5 Meet all reasonable costs of enforcement incurred by the Covenantee.
- 3.0 In the event more than one Covenantee gives demand in respect of the same breach of Covenant then the amount paid shall not exceed \$400 per day and shall be divided equally between the Covenantees that have given such demand.
- 4.0 Aspen shall not be required nor liable to enforce nor be answerable to any Covenantee (at any time) for the breach or non-observance of any Covenants binding any Burdened Land UNLESS Aspen is the registered owner for the time being of the Burdened Land in respect of which there is a breach or non-observance of the Covenants.
- 5.0 Aspen (or its successors appointed by deed) may grant such exemptions or waivers from any of the above requirements on such terms and subject to such conditions as it deems fit provided that such exemption or waiver shall not allow a detraction from the overall quality and character of the Subdivision. Any exemption or waiver shall be binding upon the Benefited Lands.
- 6.0 Any power or authority in favour of Aspen set out in clause 1.0 to 5.0 (inclusive) shall:

- 6.1 Upon any liquidation of Aspen; or
- 6.2 When Aspen no longer owns any land in the Subdivision; or
- 6.3 Fail to be exercised by Aspen within 10 working days of a demand by a Covenantee

be vested in and exercised by and through unanimous agreement of all the Covenantees of the Benefited Lands which have any part of their land within 50 metres of any part of a relevant Burdened Land. In the exercise of any such power or authority the Covenantees shall not act unreasonably.

7.0 All notices served pursuant to this Covenant Instrument shall be served in accordance with the service provisions in the Property Law Act 2007 (or any substitute legislation).

8.0 The covenants in clauses 1.1 to 1.10 (inclusive), and 1.12 shall remain in force for a period of 20 years from the 1st day of January 2018 and thereafter shall have no effect. All other covenants shall remain in perpetuity.

9.0 Definitions

- 9.1 "Covenants" means the covenants set out in clause 1.0.
- 9.2 "Benefited Land" means any lot on Deposited Plan 549881.
- 9.3 "Covenantor" means the registered owner for the time being of any Burdened Land.
- 9.4 "Covenantee" means the registered owner of any Benefited Land and Aspen.
- 9.5 "Burdened Land" means any lot against which these Covenants are registered.

10.0 Interpretation

In this Covenant Instrument unless the context requires otherwise :

- 10.1 Reference to clauses are references to clauses in this Covenant Instrument.
- 10.2 The headings used are for ease of reference only and are not to be used in interpreting the provisions.
- 10.3 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa.
- 10.4 Except as otherwise provided, the terms of this Covenant Instrument bind and benefit the parties, their administrators, and their successors and assigns in perpetuity.