

View Instrument Details



Instrument No 12687064.7
Status Registered
Date & Time Lodged 12 October 2023 13:27
Lodged By Karam, Robyn Bernadette
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
1121228	Wellington
1121229	Wellington
1121230	Wellington
1121231	Wellington
1121232	Wellington
1121233	Wellington
1121234	Wellington
1121235	Wellington
1121236	Wellington
1121237	Wellington

Annexure Schedule Contains 5 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 Robyn Bernadette Karam as Covenantor Representative on 12/10/2023 01:24 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 Robyn Bernadette Karam as Covenantee Representative on 12/10/2023 01:24 PM

*** End of Report ***

Covenant Instrument to note land covenant

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

Covenantor

Barber Commercial Limited

Covenantee

Barber Commercial 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*Schedule, if required**Continue in additional Annexure*

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land covenant		Lot 1 DP 588940 (RT 1121228) Lot 2 DP 588940 (RT 1121229) Lot 3 DP 588940 (RT 1121230) Lot 4 DP 588940 (RT 1121231) Lot 22 DP 588940 (RT 1121232) Lot 23 DP 588940 (RT 1121233) Lot 24 DP 588940 (RT 1121234) Lot 25 DP 588940 (RT 1121235) Lot 26 DP 588940 (RT 1121236) Lot 27 DP 588940 (RT 1121237)	Lot 1 DP 588940 (RT 1121228) Lot 2 DP 588940 (RT 1121229) Lot 3 DP 588940 (RT 1121230) Lot 4 DP 588940 (RT 1121231) Lot 22 DP 588940 (RT 1121232) Lot 23 DP 588940 (RT 1121233) Lot 24 DP 588940 (RT 1121234) Lot 25 DP 588940 (RT 1121235) Lot 26 DP 588940 (RT 1121236) Lot 27 DP 588940 (RT 1121237)

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].

Annexure Schedule 1

Page of Pages

*Insert instrument type***Land Covenant****1. BACKGROUND**

- 1.1** The Covenantor is proposing to subdivide the Land and sell the Lots.
- 1.2** Subject to the provisions of this Instrument, it is the Covenantor's intention but without imposing any obligation to do so, that:
- 1.2.1** the Lots shall be subject to a general scheme applicable to each of the Lots to the intent that a modern high quality and well-designed residential subdivision shall be enjoyed by the registered owners of the Benefited Lands;
- 1.2.2** the owner or occupier for the time being of each of the Lots shall be bound by the covenants set out in this Instrument, and that the Covenantee for the time being may be able to enforce the observance of such covenants by the owners or occupiers for the time being of any Lots in equity or otherwise, and
- 1.2.3** the Covenantor shall transfer each of the Lots subject to like covenants.
- 1.3** The Covenantor wishes to utilise the provisions of sections 56 and 278 of the Property Law Act 2007 to create the general scheme as it relates to the Burdened Land, and to this end will by this Instrument grant these covenants to itself.

2. GENERAL COVENANTS

- 2.1** The Covenantee will not be required or obliged to enforce all or any of the covenants, stipulations and restrictions contained in this Instrument, nor be liable to the Covenantor for any breach thereof by any of the registered owners from time to time of the Burdened Land.
- 2.2** The Covenantor shall not call upon the Covenantee to pay for or contribute towards the costs of erection or maintenance of any boundary fence between a Burdened Land and contiguous land owned by the Covenantee, Barber Commercial Limited but this covenant shall not enure for the benefit of any subsequent registered owner of such adjoining land.
- 2.3** The Covenantor covenants that the Covenantor will at all times save harmless and keep indemnified the Covenantee from all proceedings, costs, claims and demands in respect of breaches by the Covenantor of any of the stipulations, restrictions and covenants that this Instrument assigns to the Covenantor.
- 2.4** The Covenants created herein shall cease to have any effect on and will be deemed to have been released, surrendered and extinguished from any of the Burdened or Benefited Land, or part/s thereof, that will vest in a territorial authority or the Crown by virtue of statute, transfer or otherwise as road, reserve or for any other purpose in any subsequent subdivision of the Burdened or Benefited Land of which the subdivision plan has gained approval of the territorial authority or body having jurisdiction. The person/s or corporation/s benefiting from the land Covenants herein shall not be entitled to any compensation in respect of the exercise of this clause.

3. SPECIFIC COVENANT

The Covenantor for itself so as to bind a Burdened Land, covenants and agrees with the Covenantee for the benefit of the Benefited Land, and the registered owner of the Benefited Land from time to time that the Covenantor shall always observe and perform, and will do, or as the case may require, omit to do, all things necessary to ensure that each registered owner from time to time of a Burdened Land shall always observe and perform the covenants set out in this Instrument to the end and intent that these covenants shall enure for the benefit of the Benefited Land.

4. RESTRICTIVE COVENANTS

The Covenantor will **not** in respect of a Burdened Land for the term of five years from the date that the relevant authority has issued the code of compliance (CCC) for the original dwelling built on the Burdened Lot, build any further buildings or structures, build any fence or complete any landscaping work in addition to that which was completed at the time that CCC issued, without obtaining the written consent of the Developer.

5. BREACH OF COVENANT

- 5.1** If there should be any breach or non-observance by the Covenantor of any of the covenants or restrictions contained in this Instrument, then without prejudice to any other liability which the Covenantor may have to the Covenantee or any person or persons having the benefit of the covenants and restrictions, the Covenantor will upon written demand made by any Covenantee or their nominee take all steps necessary to remedy the breach for non-observance of the covenants if the breach is capable of remedy.
- 5.2** The Covenantor, without limiting any other rights at law or in equity available to the Covenantee, acknowledges a breach of any of the covenants in this Instrument shall entitle the Covenantee and their successors in title to immediate injunctive relief or to seek specific performance.
- 5.3** Any expenses and costs incurred in enforcing the covenants in this Instrument against the Covenantor shall constitute a debt and any moneys due and payable by the Covenantor shall be enforceable against the Covenantor as if it were a debt.
- 5.4** Notwithstanding any rule of law or equity to the contrary:
- 5.4.1 the covenants contained in this Instrument have been made by the parties for themselves and their respective successors in title and any persons deriving title under them and shall have effect as if those successors and other persons were expressed. Accordingly, the rights accruing to the Covenantee shall be enforceable at the suit of the Covenantee for so long as the Covenantee shall remain a registered owner of the Burdened Land, or any part of it, and upon transfer of such land to a third party, those rights shall be enforceable by their respective successors in title;
 - 5.4.2 the covenants contained in this Instrument shall be binding upon the Covenantor and its successors in title;
 - 5.4.3 the parties and their successors and persons deriving title under them shall be deemed to include the lessee, licensee or occupiers for the time being of the Burdened Land; and

5.4.4 sections 23(2), 275 to 279 (inclusive) and 301 to 306 (inclusive) of the Property Law Act 2007 shall apply.

6. DEFINITIONS AND INTERPRETATION

Definitions

6.1 In this Instrument:

- 6.1.1 **“Lot or Lots”** means each and all of the lots comprised or to comprise the lots created by subdivision of the Land including the Burdened Lands but excluding any lot which vests as a reserve or road in the Relevant Authority or in the Covenantee’s discretion is not to form part of the general scheme;
- 6.1.2 **“Land”** means an estate in fee simple being Lot 1 DP 34371 and Lot 2 DP 69081;
- 6.1.3 **“Relevant Authority”** means Horowhenua District Council and any other authority having jurisdiction over the Land;
- 6.1.4 **“Subdivision”** means the subdivision of the Land into predominantly residential sections;
- 6.1.5 **“Principal Road”** means the frontage from which a dwelling on a Burdened Land has its main pedestrian access from a public or private street, road, park or reserve;
- 6.1.6 **“Building”** means any residential dwelling house or primary building on the Lot; and
- 6.1.7 **“Developer”** means Barber Commercial Limited or its agent or any person(s) or party nominated by Barber Commercial Limited. In the event that Barber Commercial Limited is struck off or removed from the Companies Office Register then the requirement to obtain the consent as set out in clause 4 herein from Barber Commercial Limited or its agent will not be required.

Interpretation

- 6.2 In this Instrument words and expressions denoting the singular shall include the plural.
- 6.3 The Covenantor and Covenantee includes the successors and assigns of the Covenantor and Covenantee.
- 6.4 A reference in this document to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

7. EXPIRY OF COVENANTS

7.1 These covenants will continue in force for the benefit of the registered owners of any lot forming part of the Benefited Land (the Covenantees) until the date that is 5 years from the date of issue of the code of compliance (CCC) from the relevant authority for the original dwelling built upon the covenantor's individual Lot having the burden of this land covenant, at which time they will expire.

8. DISPUTE RESOLUTION

8.1 If a dispute in relation to any covenant arises between the parties who have a registered interest under these covenants:

- (a) the party/parties initiating the dispute must provide full written particulars of the dispute to the other party/parties;
- (b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
- (c) If the dispute is not resolved within 20 working days of the written particulars being given (or any longer period agreed by the parties):
 - i. The dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
 - ii. The arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.