



Covenant Instrument to note land covenant

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

Covenanter

OTANE DEVELOPMENTS LIMITED

Covenantee

OTANE DEVELOPMENTS LIMITED

Grant of Covenant

The Covenanter, 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	Restrictive Covenants set out in the attached Annexure Schedule	Lots 1 to 22 DP XXXXXXXX	Lots 1 to 22 DP XXXXXXXX



Land Covenants Definitions

1. In this instrument:-

"Developer" means Otane Developments Limited and its successors and assigns and/or its nominated agent;

"Land" means all the land contained in Record of Title HBD4/649 and HBD4/650;

"Land Covenant" means this Covenant Instrument to note Land Covenant creating the land covenants;

"Local Authority" means the Central Hawke's Bay District Council or any successor;

"Property" means lot or lots described in Schedule A as the Burdened Land and the Benefited Land;

"Plan" means Deposited Plan No. XXXXXXXXXXXX (Hawke's Bay Registry);

"Resource Consent" means RMXXXXXXXXXX or any variation;

Interpretation

1. In this Land Covenant the words and expressions denoting the singular will include the plural.
2. The Covenantor and the Covenantee includes the successors, executors, administrations and permitted assigns (as the case may be) of the Covenantor and Covenantee.



Introduction

- 1) The Covenantor is intending to develop the land in HBD4/649 and HBD4/650 into residential sections. The development is a subdivision in accordance with Resource Consent for the creation of residential sections and access ways.
- 2) The land described as Lots 1 to 20 DP XXXXXXXX (Records of Titles XXXXXXXX to XXXXXXXX) ("the Burdened Lots") forms the Covenantee's subdivision.
- 3) It is the Covenantee's intention to create for the benefit of the land described as Lots 1 to 20 DP XXXXXXXX (Records of Titles XXXXXXXX to XXXXXXXX) ("the Benefited Lots") the Land Covenant set out in Schedule B over the Burdened Lots.
- 4) The Burdened Lots shall be bound by the stipulations and restrictions set out in Schedule B and the owners and occupiers for the time being of the Benefited Lots may enforce the observance of such stipulations against the owners for the time being of the Burdened Lots.

Operative Clause

- 5) The Covenantor for itself so as to bind each of the Benefited Lots and Burdened Lots covenants and agrees that the Covenantor and Covenantee will always observe and perform all the covenants set out in Schedule B so that the covenants run with the Burdened Lots for the benefit of the Covenantee and its successors in title.



Schedule B

- 1 The Covenantor covenants with the Covenantee that it shall:
 - A. Abide by the following building restrictions:
 - i) Building quality:
 - (a) Ensure that the minimum average cost per square metre (material and construction) for the dwelling will not be less than \$2,750 including GST.
 - (b) Not to use any second-hand materials or transport on the property any pre-lived in dwelling
 - (c) obtain all necessary consents and permits;
 - (d) Not erect any building other than a house and ancillary buildings in accordance with plans (including site plan, landscape plan and external colour scheme) that have been approved by the Developer in its sole discretion prior to the commencement of building;
 - (e) The Covenantor will pay a fee of \$400.00 (excluding GST) for the Covenantee's approval of the plans and specifications for the buildings and a further fee of \$75.00 (excluding GST) for any subsequent variation in respect of the plans or specifications.
 - (f) Not permit the Property to be occupied either prior to the dwelling being completed or by the erection of temporary structures or by the placing thereon of caravans or vehicles for human occupation;
 - (g) To clad the dwelling and associated buildings in colours that are predominantly "natural" colours with the roof to be dark tones.
 - ii) Building levels allowed:
 - (a) On Lots 1 to 4 the Covenantor may construct a single or double storey dwelling
 - (b) On lots 5 to 20 the Covenantor may only construct a single storey dwelling
 - iii) Transportable dwellings:
 - (a) On lots 3, 5, 7, 10, 15, 17 and 19 new transportable dwellings are allowed.
 - (b) On lots 1, 2, 4, 6, 8, 9, 11, 12, 13, 14, 16, 18, 20 transportable dwellings are not allowed.
 - iv) Garages:
 - (a) On lots 3, 5, 7, 10, 15, 17 and 19 construct either an integral garaging or a full enclosed detached garage which is of similar materials or appearance to the dwelling within 6 months of the dwelling.
 - (b) On lots 1, 2, 4, 6, 8, 9, 11, 12, 13, 14, 16, 18, 20 construct an integral garaging at the same time as the dwelling.
 - v) Minimum floor areas:
 - (a) The dwelling including integral garaging shall be included in gross floor area measurements. Other improvements are excluded.
 - (b) On lots 3, 5, 7, 10, 15, 17 and 19 construct a dwelling with a minimum gross floor area of 95m².
 - (c) On lots 1, 2, 4, 6, 8, 9, 11, 12, 13, 14, 16, 18, 20 construct a dwelling with a minimum gross floor area of 150m².
 - vi) Exterior Cladding and roofing:
 - (a) Not use as an exterior cladding any material other than brick, stained or painted weatherboard, linear board, painted or sealed concrete block, masonry, natural



stone, stucco, plaster, coated zincalume, glazing or a combination of the above. Coated zincalume may be used for no more than 30% of the exterior cladding material;

- (b) Not use a roofing material, guttering, downpipe or exterior cladding material comprising unpainted and/or exposed zinc coated products;

B. Fencing:

- i) Prohibited fencing materials: use corrugated iron or metal sheet fencing
- ii) Permitted fencing materials: factory colour coated steel, plaster, timber, brick or an equivalent product, or other product with the covenantees approval in accord with clause b
- iii) Not to construct or grow a fences or plantings/hedges exceeding 1 metre in height within 1 meter of a boundary adjoining the street or access Lots 21 and 22, except for 1/4 of such boundary where that fence or plantings/hedges may not exceed 1.8 meters in height;
- iv) Not to construct or grow a fences or plantings/hedges exceeding 1.8 metre in height to any other boundary;
- v) Not require the Developer to pay for or contribute towards building, erecting, or maintaining any boundary fence between the Property and any adjoining land. This covenant does not endure for the benefit of any subsequent registered proprietor of any such adjoining land;

C. Not keep or raise animals of any kind or size on the Property or in any building other than a maximum of two (2) domesticated household pets. The keeping of pigeons, pigs, goats, sheep, or dogs classified as dangerous or menacing under Sections 31, 33A and 33C Dog Control Act 1996 is expressly prohibited, or any other dog which exhibits noisy, aggressive or dangerous behaviour.

D. Not permit the erection of any sign on the Property other than a professionally sign-written and installed sign marketing the dwelling or section for sale. The Developer will only permit the erection of signage indicating a business if such signage is acceptable in the sole discretion of the Developer and prior written consent is obtained. The Developer shall have the right to remove any sign which, in its sole discretion, is unacceptable without prior warning;

E. Not;

- i) Plant Pinus Radiata or Macrocarpa trees on the Property.
- ii) Permit trees to grow on the Property to a height exceeding 7 metres above ground. However, if such tree unreasonably obstructs the view or sun of any other Properties within the subdivision, then at the request of the affected Property, the Covenantor will trim the tree to a height of 5 metres.
- iii) Allow the road frontage of the Property or access lot adjoining the property, or grass berms to become untidy.

F. To ensure any exterior lighting will be designed to minimise interference or nuisance to the landowners of the other lots.



- G. Not use the Property in any way which in the opinion of the Covenantee detrimentally affects the amenities of the neighbourhood including permitting noise to escape from the Property which is likely to cause offence or a nuisance to the occupiers of the other Properties in the subdivision.
 - H. Reinststate, replace and be responsible for all costs arising from any damage to landscaping, roading, kerbs, concrete or other structures in the subdivision arising directly or indirectly from the use of the Property by the Covenantor or its occupiers, agents or invitees;
 - I. During construction only occupy the Property the Covenantor owns and shall not use any adjoining land for storage, access, car parking or earthworks.
 - J. Not permit any rubbish including builder's waste materials to accumulate upon the Property or permit grass or weeds to grow to a height exceeding 75mm or otherwise leave the Property in a condition that, in the Developer's sole discretion, may be detrimental to the Developer's subdivision. The Developer shall have the right to remove any building materials from the Property or adjoining land, or to maintain the Property in a reasonable condition to avoid the Property being or becoming detrimental to the subdivision, with reasonable costs to be met by the Covenantor and payable on demand;
 - K. Not bring on or allow to remain on the Property any motor vehicles with a gross weight in excess of 2.5 tonnes (whether mobile or immobile), caravans, boats, trailers, recreational vehicles, machinery, firewood apparatus or any such other similar thing in any place other than a shed, garage or carport and/or any area that is properly screened from the common accessway;
- 2 The Covenantor shall not object to any construction, noise, dust or activity required to complete the Further Development of the Land whatsoever.
 - 3 The Developer shall neither be required nor be liable to enforce the Land Covenants or any non-conformance of the Land Covenants nor shall the Developer be liable to any party for any breach of the Land Covenants by any Covenantor.
 - 4 The provisions of this Land Covenant (except for clauses B to O (inclusive)) shall expire on 31 December 2029.
 - 5 Where the Covenantee or any other party to these Land Covenants is required to expend money to make good any damage or loss caused by a breach of these Land Covenants by the Covenantor (or the guests, employees, agents, invitees, or tenants of the Covenantor) the Covenantee or its agent shall be entitled to recover the amounts they expended as a debt in any action in any Court of competent jurisdiction and such sum may include all costs howsoever incurred including the professional and legal costs calculated on a solicitor/client basis.



- 6 Should the Covenantor be in breach of these Land Covenants, they may be served written notice by the Covenantee or any other party to these Land Covenants requiring them to remedy the breach of the Land Covenants within seven (7) days of receipt of the notice in writing and upon the expiry of seven (7) days a penalty sum of \$100 per day shall be payable by the Covenantor until such time as the breach is remedied and the Covenantee or other party serving the notice will in addition be entitled to recover all costs incurred including all professional and legal costs calculated on a solicitor/client basis and to exercise any other remedies available.

- 7 If any dispute arises between the parties in connection with these Land Covenants, the matter will be referred to mediation. Mediation may be initiated by either party giving notice in writing to the other and identifying the dispute whereupon the parties will agree on a mediator. If they cannot agree upon a mediator within 10 working days of such notice, then a mediator will be appointed by the President of the Arbitrators and Mediators Institute of New Zealand to act in accordance with the Mediation Protocol of the Institute.

- 8 Any dispute in respect of matters arising from this Land Covenant which is not resolved by mediation will be referred to arbitration under the Arbitration Act 1996. The arbitration will be by one arbitrator if the parties can agree upon one, but failing agreement, an arbitrator will be appointed by the President of the Arbitrators and Mediators Institute of New Zealand.