

Continuation of "Estate or Interest or Easement to be created"

The Transferor as the registered proprietor of all the land contained in plan deposited in the Land Transfer Office at South Auckland under Deposited Plan \_\_\_\_\_ has subdivided that land into \_\_\_\_\_ lots and roadways in a manner shown and defined on that plan so as to establish a modern and well-designed subdivision **AND WHEREAS** it is the Transferor's intention to create for the benefit of the land set out in Schedule A (hereinafter referred to as the "Dominant Lots") the land covenants set out in Schedule B over the land in Certificates of Title \_\_\_\_\_ (both numbers inclusive hereinafter referred to as the "Servient Lots") **TO THE INTENT** that the Servient Lots shall be bound by the stipulations and restrictions set out in Schedule B hereto and that the owners and occupiers for the time being of the Dominant Lots may enforce the observance of such stipulations against the owners for the time being of the Servient Lots **AND AS INCIDENTAL** to the transfer of the fee simple so as to bind each of the Servient Lots and for the benefit of the other respective Dominant Lots the Transferee **DOETH HEREBY COVENANT AND AGREE** with the Transferor in the manner set out in Schedule B hereto so that the covenants run with each of the Servient Lots for the benefit of the other respective Dominant Lots as described in Schedule A **PROVIDED ALWAYS** that the Transferee shall as regards the said covenants and restrictions be liable only in respect of the breaches thereof which occur while they shall be registered proprietors of the Servient Lot or any part in respect of which any breach shall occur.

**SCHEDULE A**

Certificates of Title Nos

**SCHEDULE B**

**1. USE**

The Transferee will not use any part of the Servient Lot or permit the same to be used for any trading or commercial purpose, unless:

- (a) that purpose is a permitted activity under the relevant district plan and complies in all respects with the district plan and the requirements of the Territorial Authority; and
- (b) is ancillary and subordinate to the principal use of the Servient Lot as a residence.

**2. NO SUBDIVISION OR AMALGAMATION**

- (a) The Transferee will not subdivide the servient lot further in order to create any additional lot or lots whether by fee simple titles, unit titles, cross leases or otherwise.

- (b) In the event of the Transferee amalgamating the servient lot with any other Lot then for the purposes of these covenants the amalgamated property will be deemed to comprise one single Lot. Thereafter the Transferee will not be entitled to subdivide the amalgamated property into a greater number of Lots than those which made up the amalgamated property. On any such subdivision each of the new Lots will be subject to this building scheme and the land covenants.

### **3. BUILDING TO COMPLY**

The Transferee will ensure that any building erected on the servient lot complies in all respects with the requirements of the Territorial Authority.

### **4. SINGLE DWELLING WITH MINIMUM FLOOR AREA**

The Transferee will not erect, place or permit to be erected or placed on the servient lot more than one single dwelling-house. The dwelling-house (after including any closed in lock-up garage but excluding verandas, patios and other attached structure) must have a closed-in floor area of not less than 175m<sup>2</sup>.

Notwithstanding the preceding provisions of this clause a dwelling-house with a main living area and a separate but integrated subordinate living area commonly known as a "granny flat" is permitted where the subordinate living area is confined within the overall roofline of the dwelling-house and does not give the external appearance of comprising a separate unit.

### **5. NO TEMPORARY OR RELATED BUILDINGS**

The Transferee shall not erect or place or permit to be erected or placed, on the servient lot any secondhand or relocated building or caravan, hut, shed, tent, or vehicle for use as a dwelling or temporary dwelling.

### **6. ROOFING AND SHAPE OF DWELLING**

The Transferee shall not erect or place or permit to be erected or placed on the servient lot any dwelling-house

- (a) with a flat roof or a roof of one single pitch; or
- (b) of a single rectangle or single square shape, (after excluding recesses or protrusions for the front and rear entries, , patios, bay windows, or other like structure or appurtenances)

### **7. RESTRICTION ON MATERIALS**

- (a) The Transferee will not erect or permit to be erected on the servient lot any dwelling or any other building or structure that:
  - (i) Is constructed in part or in full with external second-hand materials (other than bricks or decorative stone) or
  - (ii) Does not comply with the terms and conditions of the resource building consents obtained by the Transferor from the Territorial Authority.
- (b) The Transferee will not leave the exterior of any dwelling-house unfinished or any exterior wall or door unpainted or unstained, except where cedar cladding or decorative stone or brick are used.

## **8. IMMOBILE VEHICLES**

The Transferee shall not:

- (a) allow any immobile or broken down vehicles to be placed or sited on the servient lot in a position where they are visible from the road; or
- (b) place or leave any immobile or broken down vehicles on any road or reserve in the Subdivision.

## **9. FENCING**

The Transferee will not erect or place or permit to be erected or placed any fencing boundary wall on the servient lot:

- (a) Of a height exceeding one metre on any part of the boundary line fronting a public road or within five metres of that boundary line; or
- (b) Of a height exceeding one metre on any part of the side boundary lines within five metres of the boundary line fronting a public road; or
- (c) Comprising:
  - (i) Materials of wire, wire netting, corrugated iron or plywood sheeting; or
  - (ii) Any untextured flat fibre cement sheeting; or
  - (iii) Any untextured fibrolite, hardiflex, hardiplank or the like; or
  - (iv) Long run roofing material, flat iron or the like.

## **10. CONSTRUCTION AND LANDSCAPING**

- (a) The Transferee shall complete any building on the servient lot within 6 months of laying the foundations of such building.
- (b) The Transferee will within two months of completion of a dwelling-house on the servient lot landscape the servient lot with lawn and shrubs. The Transferee will ensure that on the front yard there are not less than two trees each which will have a fully grown height of at least 2.5 metres in height. If the Transferee defaults in complying with the foregoing requirements of this sub-clause, the Transferor may enter the servient lot and take whatever action it considers necessary at the expense of the Transferee to remedy the default and if the Transferee fails to pay the Transferor upon demand all costs so incurred, the Transferor may recover those costs from the Transferee as liquidated damages in any court of competent jurisdiction
- (c) The Transferee will ensure that any stepped retaining walls and exposed banks on the servient lot are planted in grass or shrubs and that there are no areas of bare clay, gravel or earth on the servient lot.
- (d) The Transferee will keep the servient lot in a neat and tidy condition and will ensure that grass and/or weeds not exceed 100mm in height or otherwise become unsightly. If the Transferee fails to do so, the Transferee will indemnify the Transferor against the costs of the Transferor remedying the default, and the Transferor may enter upon the servient lot for the purpose of remedying such default.

## **11. SIGNAGE**

The Transferee will not erect or place or permit to be erected or placed on any part of the servient lot adjacent land or street, any advertisement sign or hoarding of a commercial nature save that:

- (a) During the course of construction of a dwelling on the servient lot a builder's sign not exceeding 1.2 square metres in area may be displayed; and
- (b) In the case of a completed dwelling a single "For Sale" sign not exceeding 1.2m<sup>2</sup> in area is permitted.

## **12. VENDOR'S APPROVAL**

- (a) Should any proposed dwelling-house, building, structure, fencing or landscaping on the servient lot not comply with the covenants contained herein then the plans for such dwelling-house, building, structure, fencing or landscaping must be submitted to the Transferor for approval, and the Transferor may in its entire discretion give written approval to the plans submitted in circumstances where in the sole opinion of the Transferor such approval would not detract from the overall quality and appearance of the Subdivision. Any such approval may be given on and subject to such terms and conditions as the Transferor determines.
- (b) The Transferor may, at any time, nominate any other person or persons to give any Transferor Approval and in that event, any provision herein relating to Transferor approval will apply on the basis that any reference to the Transferor will be deemed to be a reference to the nominee.
- (c) Any Transferor Approval given in any circumstance will not serve as a precedent for, or bind the Transferor or any nominee in any manner with respect to any future application for Transferor Approval by the Transferee or any other person.

## **13. BREACH OF COVENANTS**

If there is any breach or non-observance by the Transferee of any of the stipulations or restrictions contained in these covenants then without prejudice to any other liability which the Transferee may have to the Transferor or any person or persons having benefit of the stipulations and restrictions, the Transferee will, upon written demand made by the Transferor, or any of the registered proprietors of the servient lots:

- (a) Immediately remedy the breach or non-observance; and
- (b) Pay to the person making such demand as liquidated damages the sum of \$250.00 per day for every day or part day that such breach or non-observance continues from and after the date upon which written demand is made until such date that the breach or non-observance is remedied.

## **14. VENDOR NOT LIABLE TO ENFORCE**

The Transferor will not be required, or obliged to enforce all or any of the covenants stipulations or restrictions on the part of the Transferor contained herein, nor will the Transferor be liable to the Transferee for any breach of any like covenants, stipulations or restrictions by the registered proprietors of any of the other servient lots.

## **15. LAPSE**

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These covenants and restrictions shall expire on 31 March 2035.

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