

View Instrument Details



Instrument No 12252267.8
Status Registered
Date & Time Lodged 16 December 2021 13:48
Lodged By Boss, Clare Margaret
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
1006924	Nelson
1006925	Nelson
1006926	Nelson
1006927	Nelson
1008540	Nelson

Annexure Schedule Contains 4 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 Dene Peter Gavin as Covenantor Representative on 20/04/2022 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 Dene Peter Gavin as Covenantee Representative on 20/04/2022 01:24 PM

*** End of Report ***

Form 26**Covenant Instrument to note land covenant**
(Section 116(1)(a) & (b) Land Transfer Act 2017)**Covenantor**

Michael Leo Harris
 Michael Leo Harris, Simon Michael Harris, Belinda Jane Wheatley, Megan Sarah Gavin, Rachel
 Mary Harris-Russell, and Richard Christopher Robert Harris

Covantee

Michael Leo Harris
 Michael Leo Harris, Simon Michael Harris, Belinda Jane Wheatley, Megan Sarah Gavin, Rachel
 Mary Harris-Russell, and Richard Christopher Robert Harris

Grant of Covenant

The Covenantor being the registered owner of the burdened land(s) set out in Schedule A **grants to the Covantee** (and if so stated, in gross) the covenant(s) asset out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Schedule A

Purpose of covenant	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Restrictive Land Covenants as set out herein and in the Annexure Schedule	Lots 10, and 21 on DP 561586 (RTs 1006924, 1006926)	Records of Title 1006924, 1006925, 1006926, 1006927 and 1008540

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 B }.~~

ANNEXURE SCHEDULE B

LAND COVENANTS ("COVENANTS")

- 1.1 The Covenantor and the Covenantee wish to protect the building and visual concepts and standards and integrated appearance of the Covenantor's subdivision shown on DP 561586 (together with further stages) as a whole. To achieve this, the Covenantor hereby covenants with the Covenantee, as registered proprietors, as set out below and hereby requests that such covenants be noted against all the titles having the benefit and those having the burden of these Covenants.
- 1.2 These Covenants shall:
 - 1.2.1 Run with and bind each of the titles to Lots 10, and 21 on DP 561586 (RTs 1006924, 1006926) (the burdened land)
 - 1.2.2 Be for the benefit of and appurtenant to each of the Records of Title 1006924, 1006925, 1006926, 1006927 and 1008540 (the benefited land).
- 1.3 For the purposes of binding the Burdened Land for the benefit of the respective Benefited Land the Covenantor COVENANTS AND AGREES in the manner set out in Schedule B so that the Covenants run with the Burdened Land for the benefit of the respective Benefited Land as described in Schedule A.
- 1.4 The Covenants contained within this Instrument will automatically cease to have any effect on any Lots that will vest as road, or reserve in any subsequent stage of the subdivision upon the deposited plan for such subsequent stage, being approved as to survey by Land Information New Zealand.

SCHEDULE B

1 INTERPRETATION

- 1.1 In these covenants unless the context otherwise requires:
 - 1.1.1 "**Development**" means the subdivision of the Land owned by the Transferor as approved by Nelson City Council under RM135189.
 - 1.1.2 "**Covenantor**" means the registered proprietor of any Burdened Land and includes any tenant or occupier or their successors in title of that Lot;
 - 1.1.3 "**Covenantee**" means the registered proprietor of any Benefited Land and includes any tenant or occupier or their successors in title of that Lot;
 - 1.1.4 "**Landscaping**" means landscaping referred to in Resource Consent No. RM135189 as part of the subdivision authorised by Resource Consent No. RM135189 and all plantings in place on the Lot at the time of transfer to the first purchaser thereof by the Transferor.
 - 1.1.5 "**Lot**" or "**Lots**" means a Lot or Lots in the subdivision approved by Nelson City Council under RM135189 (and any variations thereto) of which the land subject to this instrument forms part;
 - 1.1.6 "**Permitted colour**" means the colours referred to in the Resource Consent RM135189 at Condition 33;
 - 1.1.7 "**Subdivide**" means subdivision of land as set out in section 218 of the Resource Management Act 1991;

1.1.8 **"Transferor"** means Michael Leo Harris (and all his nominees and successors);

2 PROHIBITED CONSTRUCTION AND ACTIVITIES

- 2.1** The Covenantor shall not subdivide the Burdened Land provided however any boundary adjustment that does not create or lead to the creation of a separate building site and/or building platform shall not be in breach of this covenant. This covenant shall not be binding on the Transferor.
- 2.2** The Covenantor shall not permit, construct, allow to construct or use the following on the Burdened Land:
- 2.2.1** Any temporary building or structure or any caravan, tent or other contrivance for temporary residential accommodation except for one single period not exceeding 6 months to be sited on the Building Location Area shown on Deposited Plan 561586 only;
- 2.2.2** Any building on the Burdened Land other than:
- (a) a single dwelling unit and outbuilding of which the area of such dwelling;
 - (b) one granny flat in addition to the single dwelling, and if a granny flat is established such granny flat shall not be let out or tenanted independent of the owner of the single dwelling unit or that owner's family;
- 2.2.3** Any building or other structure with a roof cladding of corrugated iron; whether painted or unpainted provided that Decramastic and Coloursteel products or products of similar construction pre-painted or coated in the manufacturing process shall not be in breach of this condition;
- 2.2.4** Install, locate or place any sign or advertisement or advertising hoarding on any road reserve, road berm or Burdened Land without the written consent of the Transferor first had and obtained. Sole discretion lies with the Transferor in giving or refusing such consent;
- 2.2.5** The Burdened Land for other than private residential purposes to the intent that such Burdened Land shall not be used for institutional residential purposes or as a hostel, lodge or boarding house, or as a correctional facility. For the purposes of this clause *"Institutional residential purposes"* shall include the use of the Burdened Land for housing purposes by Central or Government agencies or public or private health or education sector or correctional sector agencies;
- 2.2.6** Permit or cause any rubbish to accumulate be placed or stored upon the Burdened Land and not permit any excessive growth of grass, or any growth of gorse, bracken, fern or other vegetation that becomes unsightly in the opinion of the Transferor. The Covenantor shall maintain the Burdened Land in a neat tidy and attractive condition including the road frontage and perimeter planting;
- 2.2.7** Bring onto, raise, breed or keep on the Burdened Land any of the following:
- (a) Any breed of dog specified as dangerous by the Nelson City Council at any time and it is acknowledged by the Covenantor and the Covenantee that such specification of dog breed may change from time to time;
- 2.2.8** The Burdened Land or any part of it or any building on the Burdened Land for trading or commercial activity, as those words are defined in the Nelson Resource Management Plan, and will not make any application to Nelson City Council (or its successors) at any time for the purpose of using the Burdened Land, any part of it, any building (or any part of it) for any commercial activity, and shall not use the Burdened Land for any purposes other than residential purpose;

2.2.9 Recreational or commercial vehicles or trailers to be parked or located on the berm or on the road or right of way in front of the Burdened Land, excepting during the period of construction;

2.3 The Covenantor shall reinstate, replace and be responsible for all costs arising from damage to any other Lots whether burdened or benefited in the subdivision, landscaping, roading, berms, footpaths, kerbs, concrete or other structures, or underground services in the subdivision arising from the use of the Burdened Land directly or through the Covenantor's actions or those of the Covenantor's agents, servants, invitees or workpeople;

3 NON LIABILITY OF TRANSFEROR

3.1 The Transferor will not be liable because of any action it takes or fails to take or for any default in any dwelling, building, fence or other structure erected on any Lot or at all as a result of these covenants and the registered proprietor for the time being of the Burdened Land and the Benefited Land shall indemnify and keep indemnified the Transferor and its legal successors (other than successors in title after registration of a Memorandum of Transfer to the Covenantor hereunder) from any costs, claims, suits, demands, liabilities, actions or proceedings or otherwise arising out of these covenants or hereunder.

4 MODIFICATION OR WAIVER OF COVENANTS

4.1 While the Transferor remains the registered proprietor of any of the Lots it reserves the right to itself (with the intent that this right does not enure to its successors in title) to waive or modify any of the above Covenants contained herein but will only do so if in its sole and absolute discretion and opinion such action does not impinge upon the integrity of the subdivision in its entirety overall.

4.2 These covenants shall cease to have any effect on that part of any Lot that will become part of land intended to be used as a road or reserve in any subsequent stage of the subdivision. The termination of these covenants for any such road or reserve shall occur upon approval as to survey by Land Information New Zealand (or its equivalent) of any subsequent stage of the subdivision from which the Lots have been produced.

5 NO OBJECTION

5.1 The Covenantor is aware that the Transferor may in the future apply to the Nelson City Council to vary or obtain resource consents associated with the Development. The Covenantor shall not oppose, object to, frustrate, or take any action, or encourage or cause others to oppose, object to, frustrate or take any action that might in any way prevent or hinder the Transferor from progressing or completing the Development including (without limitation) development planning, zone changes, resource consents for land uses and subdivisions, Consent Authority or Environment Court applications, Territorial Authority Building Consent matters, or any other necessary consent process involving land owned by the Transferor.

6 DISPUTES

6.1 If any dispute or difference arises between the Covenantor or any of their successors and the Covenantee or any of their successors or between the Covenantor or any of their successors and the Transferor in respect of any matter arising out of these covenants or their application, then the dispute shall be resolved by a third party appointed by the Transferor for that purpose and that third party's decision shall be final and binding. Costs will fall where the third party determines as fair and reasonable as a result of that decision.

6.2 The Transferor hereunder has full rights to assign the rights to enforce these covenants to any other person at its sole discretion.

6.3 If the Covenantor does not itself complete remediation action required of it under the relevant clauses the person making demand may themselves carry out remedial work at the costs of the Covenantor and the costs so incurred by the person making demand shall be recoverable from the Covenantor as liquidated damages.