

“B”

Form B

**Easement instrument to grant easement or *profit à prendre*, or create
land covenant**

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

RIVERVIEW PROPERTIES LIMITED

Grantee

RIVERVIEW PROPERTIES LIMITED

Grant of Easement or *Profit à prendre* or Creation of Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A **grants to the Grantee** (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, **or creates** the covenant(s) **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A
required

Continue in additional Annexure Schedule, if

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Land Covenant	See First Schedule, Annexure Schedule A		

Easements or *profits à prendre* rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

~~Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007~~

The implied rights and powers are hereby ~~[varied] [negatived] [added to] or [substituted]~~ by:

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]~~

~~[the provisions set out in Annexure Schedule]~~

Covenant provisions

Delete phrases in [] and insert Memorandum number as require; continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in:

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]~~

[Annexure Schedule A]

Insert instrument type

Land Covenant

BACKGROUND

- A. The Grantor is the registered proprietor of the Covenanting Lot and the Benefiting Lot.
- B. The Covenanting Lots and the Benefiting Lots are part of a rural residential estate ("the rural estate")
- C. The Grantor has agreed to create the covenants as set out herein in favour of the Grantee in order to ensure that the character of the rural estate is maintained, preserved and enhanced.

DEFINITIONS AND INTERPRETATION

1.1 Definitions

"Benefiting Lot" means Lot 1 DP 144373, Lot 2 DP 173483 and any lot in respect of which a separate Certificate of Title issues as a result of a subdivision of Lot 1 DP 144373 and Lot 2 DP 173483 provided that such lot shall only be a benefiting lot for so long as the Developer is the registered proprietor of that lot.

"Covenanting Lots" means the Lots shown as Covenanting Lots set out in the first or second Schedule as the case may be.

"Developer" means Riverview Properties Limited or any person or entity appointed or nominated in writing by them to be the Developer. Where the Developer has been dissolved, wound up, deregistered or otherwise passed out of existence any approval or consent required from the Developer shall mean approval or consent by any party previously appointed and/or nominated in writing by the Developer for this purpose.

"Grantee" means the Developer

"Grantor" means the owner for the time being of the Covenanting Lot and includes their respective successors transferees and assigns.

"Relevant Authority" means the local or regional authorities with jurisdiction over the Development.

"Subdivision" means the subdivision and development of Lot 1 DP 144373 and Lot 2 DP 173483 by the Developer.

1.2 Interpretation

- (a) words and expressions denoting the singular shall where the context so requires include the plural and vice versa.
- (b) headings have been inserted for guidance only, and shall not be deemed to form part of the context of this instrument.

COVENANTS

2. Agreement

- 2.1 The Grantor, for itself so as to bind the Covenanting Lots in the First Schedule ("Covenanting Lots" and each one of them a "Covenanting Lot"), covenants and agrees with the Grantee that the Grantor shall always observe and perform all of the covenants set out in Clause 3.0 of this instrument 31 December 2043 at which time the covenants shall cease to apply to the end and intent that each of the covenants shall enure for the benefit of the Benefiting Lot until 31 December 2043.
- 2.2 The covenants in this instrument shall be enforceable by the Grantee against the Grantor as owner of the Covenanting Lot and his, her or its successors in title, transferees, assigns and occupiers for the time being of the Covenanting Lot.
- 2.3 No delay or failure by the Grantee to enforce performance of any covenants set out in this instrument and no indulgence granted to the Grantor by the Grantee shall prejudice the right of the Grantee to enforce any of the covenants or provisions of this instrument.
- 2.4 The Grantor shall bear any costs which may be incurred by the Grantee as a result of any default by the Grantor under this instrument.
- 2.5 The Grantee shall not be required to nor obliged to enforce all or any of the covenants and the Grantor shall be liable only in respect of breaches of the covenants which occur while the Grantor is registered as proprietor of the Covenanting Lot.
- 2.6 If there is any breach or non observance of the covenants set out in this Instrument then the Grantor must (without prejudice to any other liability the Grantor may have to any person having the benefit of the covenants):
 - (a) cease any activity in breach or non-observance of the covenants;
 - (b) otherwise remedy any breach or non-observance of the covenants.

3.0 The Grantor shall:

- 3.1 not commence the construction or erection of improvements on the Covenanting Lot whether a dwelling, accessory building, fence or swale crossing (and this shall also include exterior finishes and excavation of foundations upon the Covenanting Lot) unless plans and specifications and all other details of construction and finish as the Developer in its absolute discretion may require have been submitted to the Developer and have received the Developer's written approval. The Developer's approval shall not be unreasonably withheld where the Developer is satisfied that the proposed building is reasonably sited, compliments adjoining properties and does not detract from the standard of buildings in the rural estate and the neighbouring properties and otherwise complies with the Covenants set out in this instrument.
- 3.2 not use or permit any Covenanting Lot to be used for:
 - (a) any trading or commercial purpose other than a home occupation, as defined in the relevant local authority District Plan, which meets the permitted standards, or otherwise has resource consent, and which has the prior written consent of the Developer which may be withheld at its absolute discretion; or
 - (b) display or showhomes except with the prior written consent of the Developer which may be withheld at its absolute discretion or which may be granted subject to conditions imposed by the Developer at its absolute discretion.
- 3.3 not permit or suffer any rubbish to accumulate or to be placed upon the Covenanting Lot, and at all times to maintain the house and curtilage on a Covenanting Lot in a neat and tidy condition including keeping the grass mowed or grazed so the grass does not exceed 150mm in height.
- 3.4 not permit any immobile/unroadworthy vehicles to be stored on the Covenanting Lot unless those vehicles are stored within an enclosed shed or garage.
- 3.5 store any motorhome or caravan in a manner that ensures they are not substantially visible from the road, any shared right of way and any adjoining property.
- 3.6 ensure that pasture areas are regularly grazed or mown.

- 3.7 not construct on the Covenanting Lot a principal dwelling with a floor area less than 160 square metres (excluding garage, carports and decking) or such lesser area as approved in writing by the Developer.
- 3.8 construct no more than one principal dwelling and one minor dwelling on the Covenanting Lot.
- 3.9 not erect on the Covenanting Lot or relocate to the Covenanting Lot a dwelling which is "second hand" or is pre constructed, or use any second hand building materials in construction of a dwelling.
- 3.10 not subdivide, or permit any subdivision of the Covenanting Lot including subdivisions by way of cross-leases and subdivisions under the Unit Titles Act 1972 provided that this covenant shall not apply while the Covenanting Lot is owned by the Developer. Lots 1 and 2 DP 523159 are exempt from this covenant.
- 3.11 not allow any temporary building or structure to be erected on the Covenanting Lot to be used except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Covenanting Lot upon completion of the said construction.
- 3.12 not allow any advertisement, sign or hoarding of a commercial nature to be erected on any part of the Covenanting Lot, except with the prior written consent of the Developer which may be withheld at the Developer's absolute discretion.
- 3.13 not permit any telecom or electricity services to be provided by "overhead" means to the dwelling (and any other structures/buildings to be erected on the Covenanting Lot). All other utilities and services must be by underground means from the road to the dwelling and other structures/buildings to be erected on the Covenanting Lot.
- 3.14 maintain all landscaping provided by the Developer on the Covenanting Lot to the same standard at which it was supplied, which includes mixed, native and exotic bund planting and standard planting, at the Grantor's cost, and includes ensuring that all dead species are replaced.
- 3.15 ensure that concrete vehicle crossings from the road to the Covenanting Lot boundary match the colour and materials used by the Developer for the footpaths in the Subdivision, being grey, exposed concrete with a minimum of 4kg/m³ black oxide.
- 3.16 ensure that all driveways and hardstands of an unexposed finish have a minimum of 4kg/m³ black oxide colouring.
- 3.17 ensure that any water tank placed on the Covenanting Lot that is visible from a public road or adjoining property is screened from the road or adjoining property to a minimum of 50% of the visible area.
- 3.18 not allow the duration of any building construction works on any Covenanting Lot to extend beyond the period of 12 months from the date of commencement of such works.
- 3.19 not use or permit or suffer to be used on any building on the Covenanting Lot any building material other than brick, stone, concrete block, insulclad, masonry, stucco, solid plaster, linea weatherboard or approved timber weatherboard for any outer wall facing except with the written consent of the Developer which may be withheld at its discretion.
- 3.20 not use any corrugated iron roofing, corrugated iron or zinalume on any fencing or on the exterior of the building (except for Colorsteel which may be used for roofing provided that the colour complies with clause 3.29 of these covenants) unless the Grantor obtains the written consent of the Developer which may be withheld at its discretion.
- 3.21 not permit any dwelling house on the Covenanting Lot to be occupied for more than twelve calendar months unless all driveways, paths and fences are completed in permanent materials and all unpaved areas are properly grassed or landscaped.
- 3.22 not allow the Covenanting Lot to remain unlandscaped without lawns and shrubs for a period greater than twelve calendar months following practical completion of a dwelling house on the Covenanting Lot.

- 3.23 not carry out any earthworks (either cutting or filling) in excess of 1 metre height or depth within 1 metre of any adjoining lot boundary unless such works have been consented to in writing by the Developer which may be withheld at its absolute discretion.
- 3.24 not undertake any construction works on the Covenanting Lot without at all times complying with the following conditions and restrictions:
- (a) To keep the Covenanting Lot in a tidy orderly and safe condition throughout the construction period.
 - (b) Maintain the Covenanting Lot at all times during the course of construction free from rubbish and excessive vegetation.
 - (c) Not store or dump any construction materials or debris on any adjoining lot or cross any adjoining lot for goods or vehicle access unless consent has been granted by the Developer in writing and by the adjoining lot owner.
 - (d) Not allow major site works to commence unless a vehicle crossing and access drive for construction vehicles has been formed in metal aggregate or an alternative material as the Developer may approve at their discretion.
 - (e) Not allow rubbish, containers, equipment or other materials to be placed or escape onto adjoining or nearby lots or roads.
 - (f) Not deposit or allow any dirt, gravel, clay or other substance to be left on any road in the vicinity of the Covenanting Lot.
 - (g) To contain on the lot any silt generated during the construction of the dwelling house.
 - (h) Not to damage or remove any street trees planted by the Developer on or adjacent to the Covenanting Lot. The grantor will be responsible for any damage caused to the trees by themselves or their contractors, employees or any other invitee.
- 3.25 not erect or place or permit to be erected or placed on the Covenanting Lot any clothes line in the front yard of the Covenanting Lot that is substantially visible from the road or any shared right of way. As a guide clothes lines or service courts should be adequately screened by sufficient planting and/or fencing to ensure they are not entirely visible from other Covenanting Lots, any shared right of way or public areas.
- 3.26 ensure that the final colours of the exterior cladding and roof of the dwelling house on the Covenanting Lot shall be neutral, earthy or muted tones sympathetic with the surrounding environment. Very vibrant colours including but not limited to yellow, orange or bright blue will not generally be approved.
- 3.27 not allow to remain on any walls, fence, structure or building on the Covenanting Lot any graffiti or similar disfiguring for more than five working days from the date that such graffiti or disfiguring occurred.
- 3.28 locate any attachments to the dwelling house and buildings on the Covenanting Lot (including but not necessarily limited to television antenna and satellite dishes) so they are not directly visible from the road or any shared right of way.
- 3.29 not permit the keeping or farming of pigs, roosters, goats or donkeys on the Covenanting Lot; nor use the Covenanting Lot for animal boarding facilities or for any other activity likely to cause a nuisance or excessive noise.

4.0 Fencing

- 4.1 The Developer shall not be required nor shall it be called upon to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between any of the Lots and any contiguous land owned by the Developer, but this proviso shall not enure for the benefit of any subsequent registered proprietor of such contiguous land.
- 4.2 The Grantor shall ensure that all post and rail fencing is constructed and maintained to match fencing erected by the Developer.

5.0 Indemnity and Consequences of Breach

- 5.1 The Grantor covenants with the Grantee that it will at all times save harmless and keep indemnified the Grantee from all proceedings, costs, claims and demands in respect of breaches by the Grantor of the covenants on its part contained or implied herein, and also the enforcement of such covenants by the Grantee.
- 5.2 The Grantor acknowledges that the value of the Benefiting Lot will be affected by any non-compliance with or breach of any of the covenants contained or implied herein and the Grantor covenants for the benefit of the Benefiting Lot that should the Grantor fail to comply with, observe, perform or complete any of the covenants contained or implied herein then without prejudice to any other liability the Grantor may have to the Grantee (which includes any other person or body having the benefit of such covenants) the Grantor shall:
 - (a) immediately cease any activity in breach of these covenants; and
 - (b) immediately permanently remove or cause to be permanently removed from the Covenanting Lot any offending improvements or structure or other cause of any breach or non-observance of such covenants; and otherwise forthwith remedy the breach or non-observance thereof and replace any building materials used in breach or non observance of these covenants; and
 - (c) if the breach or failure is not remedied within 15 working days of the date of written notice of such breach or failure then the Grantee (together with its agents, employees or contractors) shall be entitled to enter onto the Covenanting Lot to arrange for rectification of the Grantor's breach or failure at the cost of the Grantor; and
 - (d) if the breach or failure is not remedied within 15 working days of the date of written notice of such breach or failure then the Grantor must pay to the person making such demands as liquidated damages the sum of \$200.00 per day for everyday that such breach or non-observance continues after the date upon which written demand has been made together with any costs and expenses incurred by the Developer to remedy the breach or non-observance.

6.0 General

- 6.1 The covenants set out in clause 3.0 of this Instrument shall run with each Covenanting Lot set out in the First Schedule for the benefit of the Benefiting Lot described in the First Schedule TO THE INTENT that the Grantor and Grantee shall continue to be bound until the earlier of the date the Developer ceases to be registered proprietor of the Benefiting Lot or the date upon which they cease to hold a fee simple estate in a Covenanting Lot as the case may be but without prejudice to any liability for any breach of covenant under this Instrument arising before such date.

FIRST SCHEDULE

Covenanting Lots

Lot DP TBA
Lot DP TBA
Lot DP TBA
Lot DP TBA
Lot DP TBA
Lot DP TBA
Lot DP TBA

The Benefiting Lot is defined in clause 1.1