

**Form 26**

**Covenant Instrument to note land covenant**

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

**Covenantor**

**TRAVERSE LIMITED**

**Covenantee**

**TRAVERSE 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**  
*required*

*Continue in additional Annexure Schedule, if*

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land Covenants		RT 1057956 to RT 1057978 inclusive	RT 1057956 to RT 1057978 inclusive

**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 Schedules 1 to 6 incl.].

**SCHEDULE OF LAND COVENANTS****1. Background**

- 1.1 The Covenantor is the Registered Proprietor of the Burdened Land and the Benefited Land.
- 1.2 The Burdened Land and the Benefited Land are part of a rural residential development.
- 1.3 The Covenantor has agreed to create the covenants as set out herein in favour of the Covenantee in order to ensure that the character of the rural estate is maintained, preserved and enhanced.

**2. Definitions and Interpretation:**

- 2.1 In this Schedule, except where a contrary intention appears from the context:
- (a) Accessory Building means a building on a Lot which is not a Main Dwelling but which is permitted under these rules and the applicable rules and regulations of the Council but does not include a Garden Shed.
  - (b) Council means the Whangarei District Council.
  - (c) Deposited Plan(s) means Deposited Plan 575862.
  - (d) Covenantor means the Covenantor and its successors and assigns.
  - (e) Development means the rural subdivision undertaken by Traverse Limited on the Land as shown by the Deposited Plan(s) and includes but is not limited to dwellings, roads, open spaces and all other associated infrastructure.
  - (f) Developer means Traverse Limited and its successor and assigns.
  - (g) Garden Shed means a single storey building on a Lot having a floor area not exceeding 10m<sup>2</sup>.
  - (h) Land means the Burdened Land as set out in Schedule A.
  - (i) Lot means each and all of the lots shown on the Deposited Plan(s).
  - (j) Main Dwelling means the principal dwelling on a Lot.
  - (k) Owner means the registered owner for the time being of a Lot.
  - (l) Traverse Limited, and its successors and assigns is the Developer of the subdivision of which the Land forms part.

- 2.2 In interpreting this Schedule, unless the context otherwise requires:
- (a) Words importing the singular number include the plural and vice versa and words importing one gender also include the other genders; and
  - (b) Any covenant or agreement on the part of two or more persons will bind those persons jointly and severally.

### 3. Covenants

3.1 The Covenantor for the Covenantor and the Covenantor's successors in title with and for the benefit of the Covenantee and the Covenantee's successors in title, so as to bind the land set out in Schedule A ("the Land") in favour of all of the other lots now or hereafter comprising the Land, that the Covenantor shall:

- (a) Not place, erect construct or permit to remain on any part of the Land any Main Dwelling or other building or structure that:
  - (i) Is constructed in whole or in part with second-hand materials; or
  - (ii) Incorporates fibrolite, hardiflex, hardiplank or any like product or flat plywood (soffits excepted), unless such cladding is coated externally with a plastered or rendered finish. Areas of outdoor cladding can be low profile long run, board and batten and products such as Corten are also acceptable cladding.
  - (iii) Uses any exterior roofing product or material which is not factory pre-finished.
- (b) Not place, erect, construct or permit to remain on any part of the Land any Accessory Building other than a Garden Shed unless the Accessory Building is constructed in the same materials as are used for the construction of the Main Dwelling and does not detract from the visual amenity of the Development.
- (c) Not place, erect, construct or permit to remain on any part of the Land any Garden Shed unless the Garden Shed:
  - (i) Has a floor area less than 10m<sup>2</sup>;
  - (ii) Is single storey only;
  - (iii) Is constructed in new permanent materials, appropriately painted, or is a new proprietary brand Garden Shed precoated with a factory colour finish that will not detract from the visual amenity of the Development.

- (d) Not place, erect, construct or permit to remain on any part of the Land any second hand, relocatable or transportable building, or shipping container or similar structure whether new, used or recycled. Builders sheds or such other buildings as are reasonably required during the course of the construction of a Main Dwelling may be placed on the Land but must be removed immediately on completion of construction of the Main Dwelling to which it relates.
- (e) Ensure that all clothes lines, satellite dishes, aerials, antennae, air conditioning units and heat pumps are installed/located so as not to be visible from the road or access ways or right of ways or in a manner that will not detract from the visual amenity of the Development.
- (f) Not occupy or use any building erected on the Land (whether temporarily or permanently) as a residence unless all buildings on the Land have been substantially completed in accordance with the provisions of this Schedule of Covenants and the Council building consent relating thereto.
- (g) Ensure that once construction of a Main Dwelling has commenced, the exterior of the same is fully closed in and finished within nine (9) months from the date of commencement of construction and that construction is fully completed within twenty-four (24) months from the date of commencement.
- (h) Within the same period of twenty-four months as referred to above complete all driveways, vehicle accessways, parking areas and paving to a proper and tradesmen like standard in concrete seal or a similar product or like product. All concrete that will be visible once construction is completed shall be finished either as exposed aggregate or with 5kg per m<sup>3</sup> of colour oxide (at 5kg kilograms per cubic metre) in the concrete mix.
- (i) Ensure that the Covenantor and the Covenantor's contractors will maintain a tidy construction site during the construction process and (without affecting the generality of this sub-clause) will:
  - (i) Have an adequate rubbish skip or receptacle on site at all times from the commencement of construction until construction is complete; and
  - (ii) Ensure that washing of all plant and machinery, including but not limited to concrete trucks, takes place on the lot in question and not on public property, road or access strips, and ensure that all run-off is contained within the lot in question.
- (j) Not bring or permit to be brought or remain upon the Land (except in the course of construction of a permitted structure) any debris, rubbish, garden rubbish, unregistered vehicles, vehicle body parts or any other

item which might in any way detract from the appearance or reputation of the Development or the quiet enjoyment of its residents

- (k) Keep the Land in a neat and tidy condition and ensure that grass is kept mown and weeds are kept under control. Any area that lies between the road frontage or road adjoining any Lot and formed carriage ways or access ways or right of ways shall be maintained in grass and regularly mown.
- (l) Ensure that exposed banks or sloping ground on the Land are planted in grass or shrubs so that there are no areas of bare clay.
- (m) Not carry out any fencing which is constructed using long run metal, corrugated iron, fibre cement board or planks or any such other pressed material.
- (n) Not place erect construct or permit to remain on the Land any retaining walls or structures (other than a Main Dwelling, Accessory Building or Garden Shed) in excess of 1 metre in height.
- (o) Not place, erect, construct or permit to remain on any part of Lots 1 to 9 inclusive shown on the Deposited Plan any;
  - (i) Buildings (including, without limitation, a Main Dwelling, Accessory Building or Garden Shed) in excess of 4.5m in height measured from the base of the retaining wall located on the northern boundary of the lot in question;
  - (ii) Trees or shrubs or vegetation in excess of 4m in height measured from the base of the retaining wall located on the northern boundary of the lot in question.
- (p) Not bring onto, raise, breed or keep any animal, livestock or poultry on the Land other than a domestic dog or cat, which shall be registered with the Relevant Authority as required.
- (q) Not allow the Land to be used as a dog kennel facility, cattery or animal breeding facility.
- (r) Not place, erect, construct or permit to remain on any part of the Land any advertisement, sign or hoarding of a commercial nature other than one sign advertising the Land "For Sale"
- (s) Not use any part of the Land wholly or partly for any trading or commercial purpose and no commercial building will be erected on any part of the Land. However, a home office complying in all respects with the applicable Council rules and bylaws will be permitted.

- (t) Not cause or suffer to be done or caused any damage to the landscape, roads, jointly owned access lots, shared accessways, right of ways, kerbing, concrete or other structures in the Development arising directly or indirectly from the use of any Lot by the Owner or any agent or invitee of the Owner and the Owner will reinstate, replace or repair and such damage at the Owners sole cost.
- (u) Not locate any utilities, services or wiring above ground level on any part of the Land.
- (v) Ensure that all water tanks are of concrete construction and are fully buried.
- (w) Not make any changes to what the Developer has constructed in regards to fencing, vehicle crossings, gates, entrance ways, roads, access ways, right of ways, planting and landscaping as located on the Land as at the date of registration of this Covenant Instrument.
- (x) Not object to any operations of the Developer on neighboring Lots during daylight hours on the condition that the Developer will use its best endeavors to keep all inconvenience caused by the movement of earth, machinery plant and equipment to a reasonable level, having regard to the nature of the work being undertaken.

#### **4. Remedies for Breach or Non-Observance**

4.1 If there should be any breach or non-observance by the Covenantor of any of the covenants or restrictions expressed or implied in this Schedule, then without prejudice to any other remedy which the Covenantee or any other person or persons having the benefit of these covenants and restrictions may have against the Covenantor, the Covenantor will upon written demand made by the Developer or it's nominee or by the registered owner of any Lot in the Development:

- (a) Pay to the person making such demand as liquidated damages the sum of Five Hundred Dollars (\$500.00) (which sum will, on the 1<sup>st</sup> of April each year, commencing in the year immediately following deposit of the Deposited Plan, be adjusted to take account of movement in the preceding year in the Consumer Price (All Groups) Index) per day for every day or part of a day that the breach or non observance of the covenants continues from and after the date upon which written demand is made; and
- (b) Remove or cause to be removed from the Lot any building or structure erected, placed or located in breach or non observance of these covenants and otherwise take all steps necessary to remedy the breach or non-observance of these covenants if it is capable of remedy.

- 4.2 The Developer shall be neither required nor liable to enforce or be answerable to any Covenantee or Covenantor for any breach of any of these covenants by the registered owner of any other Lot.

**5.0 Further Development by the Developer**

- 5.1 The Covenantor acknowledges that the Developer will undertake the Development in stages and will not oppose, frustrate, object to, nor take any action or encourage others to oppose, frustrate, object or take any action that might, in any way, prevent or hinder the Developer from progressing or completing the further subdivision of the Developer's adjoining land. This covenant extends to and includes (but is not limited to) development, planning, resource consents, earthworks, Consent Authority matters, building consent matters (including without limitation any height to boundary dispensations that have or may in the future be granted by the Whangarei District Council) and any other consents, earthworks, development and general works.
- 5.2 The Covenantor agrees to the Developer undertaking further development on the adjoining land and to Traverse Limited being permitted to vary any of these covenants for use on future stages of the Development.