

Covenant Instrument to note land covenant

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

Covenantor

OAKVIEW INVESTMENTS LIMITED

Covenantee

OAKVIEW INVESTMENTS 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

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	See First Schedule Annexure A		

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 A].

Insert instrument type

Land Covenant

Continue in additional Annexure Schedule, if required

BACKGROUND

- A. The Covenantor is the registered proprietor of the Burdened Land and the Benefited Land.
- B. The Burdened Land and the Benefited Land are part of a high quality residential development ("Development"). The Development consists of a number of lots to be held in separate titles.
- C. 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 Development as a high quality residential development is maintained, preserved and enhanced.

COVENANTS

1.0 Definitions

In this instrument, the following definitions shall apply, unless the context otherwise requires:

Oakview means Oakview Investments Limited but where Oakview has been dissolved, wound up, deregistered or otherwise passed out of existence any approval or consent required from Oakview shall mean approval or consent by any party previously appointed and/or nominated in writing by Oakview for this purpose.

Lots means Lots 1-24, 32-72, 201-209, 211 and 214 DP 581536

2. Agreement

- 2.1 The Covenantor, for itself so as to bind the Burdened Land in the First Schedule ("Burdened Land"), covenants and agrees with the Covenantee (for the benefit of the Covenantee and the registered proprietor from time to time of the Benefited Land) that the Covenantor shall always observe and perform all of the covenants set out in Clause 3.0 of this instrument until the 31st of December 2032 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 registered proprietor from time to time of the Benefited Land until the 31st of December 2032.
- 2.2 The Covenantor, for itself so as to bind the Stone Wall Covenanting Lots in the Second Schedule ("Stone Wall Covenanting Lots"), covenants and agrees with the Covenantee (for the benefit of the Covenantee and each registered proprietor from time to time of the Benefited Land) that the Covenantor shall always observe and perform all of the covenants set out in Clause 5.0 of this instrument until the 31st of December 2032 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 registered proprietor from time to time of the Benefited Land until the 31st of December 2032.
- 2.3 The Covenantor, for itself so as to bind the Bund Protection Covenanting Lots in the Third Schedule ("Bund Protection Covenanting Lots"), covenants and agrees with the Covenantee (for the benefit of the Covenantee and each registered proprietor from time to time of the Benefited Land) that the Covenantor shall always observe and perform all of the covenants set out in Clause 6.0 of this instrument until the 31st of December 2032 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 registered proprietor from time to time of the Benefited Land until the 31st of December 2032.

- 2.4 The covenants in this instrument shall be enforceable by the Covenantee (and the Covenantee's assigns, transferees or successors) against the Covenantor as owner of the Burdened Land and his, her or its successors in title, transferees, assigns and occupiers for the time being of the Burdened Land.
- 2.5 No delay or failure by the Covenantee to enforce performance of any covenants set out in this instrument and no indulgence granted to the Covenantor by the Covenantee shall prejudice the right of the Covenantee to enforce any of the covenants or provisions of this instrument.
- 2.6 The Covenantor shall bear any costs which may be incurred by the Covenantee as a result of any default by the Covenantor under this instrument.
- 2.7 The Covenantee shall not be required to nor obliged to enforce all or any of the covenants and the Covenantor shall be liable only in respect of breaches of the covenants which occur while the Covenantor is registered as proprietor of the Burdened Land.
- 2.8 If there is any breach or non-observance of the covenants set out in this Instrument then the Covenantor must (without prejudice to any other liability the Covenantor may have to any person having the benefit of the covenants):
- (a) remove or cause to be removed from the Burdened Land any dwelling house, garage, carport, building or other structure (or any part of it) erected or placed on the Burdened Land in breach or non-observance of the covenants;
 - (b) replace any building materials used in breach or non-observance of the covenants;
 - (c) cease any activity in breach or non-observance of the covenants;
 - (d) otherwise remedy any breach or non-observance of the covenants.
- 3.0 The Covenantor shall:**
- 3.1 Not commence any construction, development, earthworks or fill on any Burdened Land without having first obtained the written approval of Oakview to the plans and specifications and the exterior design and appearance of the proposed building and any proposed earthworks or fill and once approval is obtained, not make any change to the plans and specifications or the exterior design and appearance of the proposed building or proposed earthworks or fill.
- 3.2 Follow the guideline that any dwelling house on any Burdened Land should be designed so as to fit with the existing land contours so that limited earthworks (cutting or filling) is required.
- 3.3 Not erect or place or permit to be erected or placed on any Burdened Land that has a lot size of more than 500m² anything other than one single story dwelling house having closed in habitable living space (exclusive of carport or garage) with a floor area of at least 140m² and which must also have attached, closed in single or double car garaging or such other garaging that is approved in writing by Oakview at its discretion.
- 3.4 Not erect or place or permit to be erected or placed on any Burdened Land that has a lot size of less than 500m² anything other than one single story dwelling house having closed in habitable living space (exclusive of carport or garage) with a floor area of at least 110m² and which must also have attached, closed in single or double car garaging or such other garaging that is approved in writing by Oakview at its discretion.
- 3.5 Not use or permit any Burdened Land to be used for:
- (a) any trading or commercial purpose other than that permitted by the local authority and which has the prior written consent of Oakview which may be withheld at its absolute discretion; or
 - (b) display or showhomes except with the prior written consent of Oakview which may be withheld at its absolute discretion or which may be granted subject to conditions imposed by Oakview at its absolute discretion.
- 3.6 Not allow the duration of any building construction works on any Burdened Land to extend beyond the period of 12 months from the date of commencement of such works.
- 3.7 Not use or permit or suffer to be used on any building on any Burdened Land 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 Oakview which may be withheld at its discretion.
- 3.8 Not use or permit or suffer to be used any second-hand materials on any building on any Burdened Land.

- 3.9 Not use any corrugated iron roofing, corrugated iron or zincalume on any fencing or on the exterior of the building (except for Colorsteel which may be used for roofing and cladding provided that the colour complies with clause 3.25 of these covenants) unless the Covenantor obtains the written consent of Oakview which may be withheld at its discretion.
- 3.10 Not use or place or permit to be erected, transported or placed on any Burdened Land any second-hand home of any type or description.
- 3.11 Ensure that all driveway crossings and other concrete paved areas (including but not limited to car stands and drainage) are paved with exposed aggregate concrete with a minimum of 4kg/m³ black oxide or broom finished concrete with a minimum of 6kg/m³ black oxide to match as closely as possible the exposed aggregate concrete on the adjacent road. The Covenantor must not use red coloured concrete.
- 3.12 Not erect or bring on to or allow to remain on any Burdened Land (except during the time of construction of the dwelling house) any temporary building, container, garden shed, caravan, trade vehicle or other equipment or materials or machinery unless garaged or adequately screened so as not to be highly visible from the road and neighbouring properties so as to preserve the amenities of the development and also to prevent noise likely to cause offence to residents in the subdivision provided however that the Covenantor may erect one garden shed having a maximum floor area of 15m² which is clad in materials approved by Oakview and erected in a location approved by Oakview which approvals may be withheld at Oakview's absolute discretion.
- 3.13 Not cause or allow any recreational or commercial vehicles to be regularly located either on any commonly owned access lot or shared right of way or footpath nor on that area between the front boundary of any Burdened Land and the dwelling. No caravan or motorhome shall be placed on any Burdened Land to be used for residential use other than for short term occupation of visitors.
- 3.14 Not erect or permit or suffer to be erected or placed upon any Burdened Land any building where the basement (including but not limited to basement garage) is not fully enclosed to the reasonable satisfaction of Oakview.
- 3.15 Ensure that any fence erected between the dwelling house and a public road or between the dwelling house and any commonly owned access lot or shared right of way on any Burdened Land:
- (a) does not exceed a height of 1.2 metres unless otherwise approved by Oakview at its sole discretion;
 - (b) is erected at least 0.5 metres inside the boundary of the Burdened Land;
 - (c) has planting between such fence and the boundary of the Burdened Land spaced at no more than 1.0metre intervals;
- 3.16 Ensure that post and rail fencing is erected on Lots that share a boundary with Hansen Road between the dwelling house and Hansen Road, and ensure that all post and rail fencing is constructed and maintained to match fencing erected by the Oakview.
- 3.17 Ensure that any post and rail fencing erected by Oakview inside the boundary of any Burdened Land is maintained to a high standard in the reasonable opinion of Oakview.
- 3.18 Not call upon the owner of any adjoining Burdened Land to contribute toward the cost of erection of any boundary fencing if fencing has been erected between such adjoining Burdened Land by Oakview, which fencing must be safe and secure in the reasonable opinion of Oakview and which may or may not be on the legal boundary between such adjoining Burdened Land.
- 3.19 Not permit any dwelling house on any Burdened Land to be occupied for more than six calendar months unless all driveways, paths and fences are completed in permanent materials and all unpaved areas are properly grassed or landscaped.
- 3.20 Not allow any Burdened Land to remain unlandscaped without lawns and shrubs for a period greater than six calendar months following practical completion of a dwelling house on such Burdened Land.
- 3.21 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 Oakview which may be withheld at its absolute discretion.

- 3.22 Not undertake any construction works on the Burdened Land without at all times complying with the following conditions and restrictions:
- (a) To keep the Burdened Land in a tidy orderly and safe condition throughout the construction period.
 - (b) Maintain the Burdened Land 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 Oakview 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 Oakview may approve at their discretion.
 - (e) Not allow rubbish, containers, equipment or other materials to be placed or escape onto adjoining or nearby lots, the Private Access Lot 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 Burdened Land.
 - (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 Oakview on or adjacent to the Burdened Land. The Covenantor will be responsible for any damage caused to the trees by themselves or their contractors, employees or any other invitee.
- 3.23 Not construct erect or place or permit to be constructed, erected or placed any water storage tank on the Burdened Land unless it is buried.
- 3.24 Not erect or place or permit to be erected or placed on any Burdened Land any clothes line in the front yard of that Burdened Land that is substantially visible from the road or any commonly owned access lot or 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 Burdened Land, any commonly owned access lot or shared right of way or public areas.
- 3.25 Ensure that the final colours of the exterior cladding and roof of the dwelling house on the Burdened Land 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.
- 3.26 Not allow to remain on any walls, fence, structure or building on the Burdened Land any graffiti or similar disfiguring for more than five working days from the date that such graffiti or disfiguring occurred.
- 3.27 Locate any attachments to the dwelling house and buildings on the Burdened Land (including but not necessarily limited to television antenna and satellite dishes) so they are not highly visible from the road or any commonly owned access lot or shared right of way.
- 3.28 Ensure that any grassed areas are regularly mown including road berm areas directly adjacent to the relevant Burdened Land.
- 3.29 Not permit any immobile/unroadworthy vehicles to be stored on the Burdened Land unless those vehicles are stored within an enclosed shed or garage.
- 3.30 Not subdivide, or permit any subdivision of the Burdened Land including subdivisions by way of cross-leases and subdivisions under the Unit Titles Act 1972 provided that this covenant shall not apply while the Burdened Land is owned by Oakview.
- 3.31 Maintain any landscape planting and any hard landscaping that has been undertaken or erected by Oakview on the Burdened Land.
- 4.0 Fencing**
- 4.1 Oakview 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 Oakview.

5.0 Stone Wall covenants

- 5.1 The Covenantor shall not remove, damage, deface, interfere with, grow vegetation over, obstruct or alter the stone wall or walls erected on the Covenanting Areas of any Stone Wall Covenanting Lot, nor shall the Covenantor permit or cause any removal, damage, defacing of, interference with, the growing of vegetation over, obstruction or alteration to the stone wall or walls erected on any Covenanting Area of any Stone Wall Covenanting Lot without in each case obtaining the written consent of Oakview which may be withheld in its absolute discretion.

6.0 Bund Protection covenants

- 6.1 The Covenantor shall not remove, damage, deface, interfere with, obstruct or alter the bunds erected on the Covenanting Areas of any Bund Protection Covenanting Lot, nor shall the Covenantor permit or cause any removal, damage, defacing of, interference with, obstruction or alteration of the bunds erected on any Covenanting Area of any Bund Protection Covenanting Lot without in each case obtaining the written consent of Oakview which may be withheld in its absolute discretion.
- 6.2 The Covenantor shall preserve and maintain the planting undertaken by Oakview on the Covenanting Areas of any Bund Protection Covenanting Lot, not do anything that would prejudice the health or ecological value of the planting on the Covenanting Areas of any Bund Protection Covenanting Lot, and shall control all invasive plants and pest animals within the Covenanting Areas of any Bund Protection Covenanting Lot.

7. Indemnity and Consequences of Breach

- 7.1 The Covenantor covenants with the Covenantee that it will at all times save harmless and keep indemnified the Covenantee from all proceedings, costs, claims and demands in respect of breaches by the Covenantor of the covenants on its part contained or implied herein, and also the enforcement of such covenants by the Covenantee.
- 7.2 The Covenantor acknowledges that the value of the Benefited Land will be affected by any non-compliance with or breach of any of the covenants contained or implied herein and the Covenantor covenants for the benefit of the Benefited Land and of each registered proprietor of the Benefited Land from time to time that should the Covenantor fail to comply with, observe, perform or complete any of the covenants contained or implied herein then without prejudice to any other liability the Covenantor may have to the Covenantee (which includes any other person or body having the benefit of such covenants) the Covenantor shall:
- (a) immediately permanently remove or cause to be permanently removed from the Lot upon which the breach or failure has occurred 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
 - (b) if the breach or failure is not remedied within 60 days of the date of notice of such breach or failure then the Covenantee (together with its agents, employees or contractors) shall be entitled to enter onto the Burdened Land to arrange for rectification of the Covenantor's breach or failure at the cost of the Covenantor.

8.0 General

- 8.1 The covenants set out in clauses 3.1 to 3.31 of this Instrument shall run with the Burdened Land set out in the First Schedule for the benefit of all the Benefited Land described in the First Schedule TO THE INTENT that the Covenantor and Covenantee shall continue to be bound until the 31st of December 2032 but without prejudice to any liability for any breach of covenant under this Instrument arising before such date.
- 8.2 The covenants set out in clause 5.1 of this Instrument shall run with the Stone Wall Covenanting Lots set out in the Second Schedule for the benefit of all the Benefited Land described in the Second Schedule TO THE INTENT that the Covenantor and Covenantee shall continue to be bound until the 31st of December 2032 but without prejudice to any liability for any breach of covenant under this Instrument arising before such date.
- 8.3 The covenants set out in clause 6.1 and 6.2 of this Instrument shall run with the Bund Protection Covenanting Lots set out in the Third Schedule for the benefit of all the Benefited Land described in the Third Schedule TO THE INTENT that the Covenantor and Covenantee shall continue to be bound until the 31st of December 2032 but without prejudice to any liability for any breach of covenant under this Instrument arising before such date.

FIRST SCHEDULE

Burdened Land	Benefited Land
Lot 1 DP 581536	All of the Lots other than Lot 1 DP 581536
Lot 2 DP 581536	All of the Lots other than Lot 2 DP 581536
Lot 3 DP 581536	All of the Lots other than Lot 3 DP 581536
Lot 4 DP 581536	All of the Lots other than Lot 4 DP 581536
Lot 5 DP 581536	All of the Lots other than Lot 5 DP 581536
Lot 6 DP 581536	All of the Lots other than Lot 6 DP 581536
Lot 7 DP 581536	All of the Lots other than Lot 7 DP 581536
Lot 8 DP 581536	All of the Lots other than Lot 8 DP 581536
Lot 9 DP 581536	All of the Lots other than Lot 9 DP 581536
Lot 10 DP 581536	All of the Lots other than Lot 10 DP 581536
Lot 11 DP 581536	All of the Lots other than Lot 11 DP 581536
Lot 12 DP 581536	All of the Lots other than Lot 12 DP 581536
Lot 13 DP 581536	All of the Lots other than Lot 13 DP 581536
Lot 14 DP 581536	All of the Lots other than Lot 14 DP 581536
Lot 15 DP 581536	All of the Lots other than Lot 15 DP 581536
Lot 16 DP 581536	All of the Lots other than Lot 16 DP 581536
Lot 17 DP 581536	All of the Lots other than Lot 17 DP 581536
Lot 18 DP 581536	All of the Lots other than Lot 18 DP 581536
Lot 19 DP 581536	All of the Lots other than Lot 19 DP 581536
Lot 20 DP 581536	All of the Lots other than Lot 20 DP 581536
Lot 21 DP 581536	All of the Lots other than Lot 21 DP 581536
Lot 22 DP 581536	All of the Lots other than Lot 22 DP 581536
Lot 23 DP 581536	All of the Lots other than Lot 23 DP 581536
Lot 24 DP 581536	All of the Lots other than Lot 24 DP 581536
Lot 32 DP 581536	All of the Lots other than Lot 32 DP 581536
Lot 33 DP 581536	All of the Lots other than Lot 33 DP 581536
Lot 34 DP 581536	All of the Lots other than Lot 34 DP 581536
Lot 35 DP 581536	All of the Lots other than Lot 35 DP 581536
Lot 36 DP 581536	All of the Lots other than Lot 36 DP 581536
Lot 37 DP 581536	All of the Lots other than Lot 37 DP 581536
Lot 38 DP 581536	All of the Lots other than Lot 38 DP 581536
Lot 39 DP 581536	All of the Lots other than Lot 39 DP 581536
Lot 40 DP 581536	All of the Lots other than Lot 40 DP 581536
Lot 41 DP 581536	All of the Lots other than Lot 41 DP 581536
Lot 42 DP 581536	All of the Lots other than Lot 42 DP 581536
Lot 43 DP 581536	All of the Lots other than Lot 43 DP 581536
Lot 44 DP 581536	All of the Lots other than Lot 44 DP 581536
Lot 45 DP 581536	All of the Lots other than Lot 45 DP 581536
Lot 46 DP 581536	All of the Lots other than Lot 46 DP 581536
Lot 47 DP 581536	All of the Lots other than Lot 47 DP 581536
Lot 48 DP 581536	All of the Lots other than Lot 48 DP 581536
Lot 49 DP 581536	All of the Lots other than Lot 49 DP 581536
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Lot 55 DP 581536	All of the Lots other than Lot 55 DP 581536

Lot 56 DP 581536	All of the Lots other than Lot 56 DP 581536
Lot 57 DP 581536	All of the Lots other than Lot 57 DP 581536
Lot 58 DP 581536	All of the Lots other than Lot 58 DP 581536
Lot 59 DP 581536	All of the Lots other than Lot 59 DP 581536
Lot 60 DP 581536	All of the Lots other than Lot 60 DP 581536
Lot 61 DP 581536	All of the Lots other than Lot 61 DP 581536
Lot 62 DP 581536	All of the Lots other than Lot 62 DP 581536
Lot 63 DP 581536	All of the Lots other than Lot 63 DP 581536
Lot 64 DP 581536	All of the Lots other than Lot 64 DP 581536
Lot 65 DP 581536	All of the Lots other than Lot 65 DP 581536
Lot 66 DP 581536	All of the Lots other than Lot 66 DP 581536
Lot 67 DP 581536	All of the Lots other than Lot 67 DP 581536
Lot 68 DP 581536	All of the Lots other than Lot 68 DP 581536
Lot 69 DP 581536	All of the Lots other than Lot 69 DP 581536
Lot 70 DP 581536	All of the Lots other than Lot 70 DP 581536
Lot 71 DP 581536	All of the Lots other than Lot 71 DP 581536
Lot 72 DP 581536	All of the Lots other than Lot 72 DP 581536
Lot 201 DP 581536	All of the Lots other than Lot 201 DP 581536
Lot 202 DP 581536	All of the Lots other than Lot 202 DP 581536
Lot 203 DP 581536	All of the Lots other than Lot 203 DP 581536
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Lot 208 DP 581536	All of the Lots other than Lot 208 DP 581536
Lot 209 DP 581536	All of the Lots other than Lot 209 DP 581536
Lot 211 DP 581536	All of the Lots other than Lot 211 DP 581536
Lot 214 DP 581536	All of the Lots other than Lot 214 DP 581536

SECOND SCHEDULE

Stone Wall Covenanting Lots	Covenanting Area	Benefited Land
Lot 1 DP 581536	CC	All of the Lots other than Lot 1 DP 581536
Lot 47 DP 581536	DD	All of the Lots other than Lot 47 DP 581536
Lot 59 DP 581536	O	All of the Lots other than Lot 59 DP 581536

THIRD SCHEDULE

Bund Protection Covenanting Lots	Covenanting Area	Benefited Land
Lot 67 DP 581536	L and W	All of the Lots other than Lot 67 DP 581536
Lot 68 DP 581536	M and X	All of the Lots other than Lot 68 DP 581536
Lot 59 DP 581536	O	All of the Lots other than Lot 59 DP 581536
Lot 60 DP 581536	P	All of the Lots other than Lot 60 DP 581536
Lot 61 DP 581536	Q	All of the Lots other than Lot 61 DP 581536
Lot 62 DP 581536	R	All of the Lots other than Lot 62 DP 581536
Lot 63 DP 581536	S	All of the Lots other than Lot 63 DP 581536
Lot 64 DP 581536	T	All of the Lots other than Lot 64 DP 581536
Lot 65 DP 581536	U	All of the Lots other than Lot 65 DP 581536
Lot 66 DP 581536	V	All of the Lots other than Lot 66 DP 581536