

## **ANNEX A            LAND COVENANT**

### **Background**

- A.     The Covenantor is the registered proprietor of the Land.
- B.     The Covenantor intends that the Lots shall be subject to a general scheme applicable to, and for the benefit of, each of the Lots to the intent that:
- (i)    a high standard and fully integrated residential subdivision shall be enjoyed by the registered proprietors of the Lots; and
  - (ii)   the owner of each of the Lots shall be bound by the covenants set out in this instrument as far as they affect each Lot; and
  - (iii)  the owner/occupier of any Lot may be able to enforce the observance of these covenants by the owners or occupiers of any of the other Lots in law, equity or otherwise.

### **Interpretation**

In this Instrument, terms defined through the Instrument have that meaning throughout this Instrument, and:

“Approved Building Plans” means building plans undertaken by an Approved Designer and approved by the Design Review Board, “Approved Landscaping Plans” means landscaping plans approved by the Design Review Board and “Approved Plans” means either or both of them.

“Approved Designer Process” means the process by which Designers are approved by the Design Review Board or the OOAL should the Design Review Board fail to exist.

“Benefited Owner” means the owner of each Benefited Lot from time to time.

“Benefited Lot” means each of the lots described as benefited land in Schedule A.

“Buildings” includes all buildings and/or structures on any Lot.

“Burdened Owner” means the owner of each Burdened Lot from time to time.

“Burdened Lot” means each of the Lots described as burdened land in Schedule A.

“Consent” means the resource consent for the Subdivision issued by New Plymouth District Council (SUB15/46454.03) and including any variations to it.

“Consent Notice” means any consent notice registered on the title to any Lot.

“Curtilage Area” in respect of each Lot, means the area delineated as curtilage area on the Plan.

“Design Review Board” means:

- (a) the persons nominated by the Developer from time to time at its sole discretion as the Design Review Board to utilise their expertise to review and assess Building and Landscape Plans against the against the Approval Process and Design Guidelines; and
- (b) if Developer is removed from the Companies register or otherwise fails to so nominate, means the persons nominated by OOAL or, if OOAL fails to so nominate, means OOAL.

“Designated Lot” means Lot 15 or any other Lot designated by the Developer as the Designated Lot (provided that no more than one lot may be designated as the Designated Lot).

“Developer” means The Green Limited.

“Developer Enforcement Period” means the period ending on the earlier of the day after the Developer ceases to be an Owner of a Residential Title and the date specified in a notice from the Developer to the OOAL stipulating that the Developer Enforcement Period is to end.

“Dune Management Areas” means the areas specified as dune restoration management areas on the Plan, within each Lot but outside the Curtilage Area.

“Dune Management Plan” means the dune management plan provided for in the resource consent for the Subdivision (including the Aftercare and Maintenance Programme and any amendment to it approved by the New Plymouth District Council from time to time).

“Government Entity” includes the Crown, any Crown Entity (including Housing New Zealand Corporation), any local authority, or any entity owned or controlled by a local authority.

“Land” means all of the land in Computer Freehold Register 803378.

“Lot” means each of the lots in the Subdivision.

“Lot Owner” means the owner for the time being of a Lot.

“Oceanside Approved Designer” means a designer approved by the Design Review Board in accordance with the Approved Designer Process.

“Oceanside Construction Guidelines” means the construction guidelines promulgated by the Developer (and, if the Developer has been removed from the Companies register, the OOAL).

“Oceanside Design Guidelines” means the design guidelines promulgated by the Developer (and, if the Developer has been removed from the Companies register, the OOAL) from time to time and which will reflect the requirements of these covenants and the Consent Notices.

“OOAL” means Oceanside Owners’ Association Limited.

“Plan” means DP 556702.

“Rules” means the rules relating to the Development promulgated by OOAL from time to time.

“Subdivision” means the subdivision of the Land comprising all of the Lots.

### **Covenants and Conditions**

The Covenantor as registered owner of each of the Burdened Lots covenants for the benefit of the Covenantee as registered owner of each of the Benefited Lots as follows:

1. No more than one self-contained building shall be erected on any Lot. Any ancillary residential building shall not contain kitchen facilities.
2. Lots shall not be further subdivided.
3. No pre-built transportable, relocatable, or second-hand dwellings or any structure capable of providing temporary accommodation shall be erected, constructed, or established on any Lot. For the avoidance of doubt caravans, mobile homes, boats, and trailers may be stored on each Lot once a habitable building has been completed, provided they cannot be viewed from the road and open spaces.
4. The provisions of the Consent Notice shall be implied into this instrument and, to the greatest extent possible, the provisions of the Consent Notice shall be enforceable as individual terms of this

covenant by each Benefited Owner against each Burdened Owner. If there is any conflict between the provisions of this covenant and any Consent Notice, the more restrictive provision shall apply.

#### Design

5. All building plans for each Lot must be designed by an Oceanside Approved Designer.
6. No building and landscape plans for any Lot may be submitted to the New Plymouth District Council for building consent before the plans have been approved by the Design Review Board.
7. In deciding whether or not to approve any plans submitted to it, the Design Review Board may consider any matter it considers relevant (including compliance with all applicable resource consents, Consent Notices, covenants, and the District Plan). It shall also have regard to whether the plans:
  - a. Are respectful of the views and privacy of other landowners within the Subdivision;
  - b. Are respectful of the views from public spaces;
  - c. Are consistent with the building theme created by the Developer under the Oceanside Design Guidelines;
  - d. Maintain and/or enhance the character and quality aesthetic of the Subdivision;
  - e. Give consideration to the environmental conditions;
  - f. Are sympathetic to and compatible with the character of the surrounding natural environment and are integrated into the landform;
  - g. Give consideration to opportunities to minimize impact on the land, increase energy efficiency, conserve water, and reduce environmental impact and waste;
  - h. Incorporate design elements which will ensure articulated and varied frontages that minimize bulk and scale and avoid large monotonous facades by articulating the building into small connected blocks or variations in materials or other architectural elements.
8. The Burdened Owner shall be liable to pay the Developer:
  - a. a fee of \$500 (including GST) for the initial review of the building and landscape plans by the Design Review Board; and
  - b. a fee of \$500 (including GST) for each substantial revision of the building and landscape plans by the Design Review Board.
9. No Burdened Owner may commence construction, or bring any materials onto any Lot until:
  - a. the building and landscape plans have been approved by the Design Review Board and any building and/or resource consents have been obtained;
  - b. the Burdened Owner, and their builder, has agreed to comply with the Oceanside Construction Guidelines and has paid to the Developer a construction bond of \$5,000.00; and
  - c. a Start-Up Meeting has been held on site with the Developer's Representative, the Burdened Owner, the designer/project manager, and the construction foreman (or similar representatives).
10. No Buildings and/or structures may be erected on any Lot other than in accordance with the Approved Plans. If any Burdened Owner wishes to vary building or landscaping plans after they have been approved by the Design Review Board (including alterations, additions, or modifications to the exterior e.g. colour or cladding variations), the Burdened Owner must seek approval to the variation from the Design Review Board.
11. The Design Review Board shall advise as soon as reasonably practicable whether or not approval is granted.
12. On the completion of construction on any Lot, the Burdened Owner must permit the Design Review Board to access the Lot (including all Buildings on it) with the landowner, designer/project manager, and/or foreman to inspect the Buildings and landscaping so as to confirm that construction complies with the Approved Plans, together with relevant resource consents, building consents, Consent Notices, and these covenants (together *Requirements*).

13. If the Design Review Board, acting reasonably, determines that the construction does not comply with the Requirements, it will serve the Burdened Owner with notice in writing specifying the areas of non-compliance and remedial work required (*Compliance Notice*) and the Burdened Owner must rectify the non-compliance within 60 days at the Burdened Owner's cost in all respects.
14. If the Burdened Owner fails to comply with a Compliance Notice within the 60-day period specified, the Developer may enter onto the Lot to rectify the breach and recover its full costs of doing so from the Burdened Owner as a debt due and owing and the Developer may initiate any legal proceedings it deems necessary to remedy the breach (including seeking specific performance or injunctive relief).
15. After the end of the Developer Enforcement Period, OOAL may exercise the rights and shall have the obligations of the Developer (including in respect of the Design Review Board) under this instrument as if it were the Developer, and each reference to the Developer shall, to the greatest extent possible, be deemed to be a reference to OOAL.
16. The Developer may promulgate rules and guidelines from time to time relating to the operation of the Design Review Board, which shall be binding on each Burdened Owner, and which may include matters such as:
  - a. Approved Designer Application Process
  - b. Design Guidelines
  - c. Plan Approval Process (Building and Landscape including Variations to Approved Plans)
  - d. Construction Guidelines
  - e. Permitted Retaining Designs
  - f. Dune Management Plan (including Maintenance and Aftercare Programme).

#### Exterior Colours and Materials

17. Exterior wall claddings and joinery on all Buildings must be constructed of quality materials, including but not limited to:
  - a. Timber
  - b. Corten steel
  - c. Block masonry
  - d. Concrete
  - e. Natural stone or rock
  - f. Rammed earth, or
  - g. Such other material that complements the natural environment and that is approved by the Design Review Board.
18. External joinery on all Buildings may only be constructed of the following materials:
  - a. Aluminum or steel; or
  - b. Timber
19. The following components shall not be used on any building or structure: ornate fenestration, multiple glazing bars with numerous small panes of glass, applied glazing bars in aluminum joinery, arched windows, and mirrored glass.
20. Any exterior cladding or joinery on any building or structure (including retaining walls) that is colour treated with paint, stain, or tint will be limited to a palette of browns, greys, dark greens, and blacks from the BS5252 naturally recessive colour range (or equivalent) with a Light Reflectivity Value less than 35% in a matt finish group A07, A09, A11, A13, A14, B23, B25, B27, and B29. Where a BS5252 descriptor code is not available to establish an equivalent colour, a sample colour chip equivalent to an acceptable BS5252 colour is satisfactory.
21. For the avoidance of doubt, brick clad and tiled roofed homes are not permitted (provided that bagged brick is permitted). Painted weatherboard cladding is only permitted in black. Metal profile cladding (i.e. corrugated or tray profile) is only permitted as a cladding material in black on south facing walls

22. External roofing materials of any Buildings may only be constructed of the following materials:
  - a. Steel, copper, or zinc
  - b. Timber
  - c. Slate
  - d. Living/green roof
23. External roofing materials (including spouting, downpipes, flashings, flat roof membrane systems, and chimneys) of any buildings or structure shall have reflectivity values of less than 35% and be finished in a naturally recessive colour of brown, grey, dark green, or black to complement the cladding from the BS5252 naturally recessive colour range (or equivalent) with a Light Reflectivity Value less than 35% in a matt finish group A07, A09, A11, A13, A14, B23, B25, B27, and B29. Where a BS5252 descriptor code is not available to establish an equivalent colour, a sample colour chip equivalent to an acceptable BS5252 colour is satisfactory.
24. Only flat, monopitch, or gable roof designs of 18 degrees or less will be permitted. Roofs are to be simple in design. Hip roofs are not permitted.

#### Parking

25. Before commencing construction, the Burdened Owner must construct a hardstand area within the Curtilage Area. The hardstand area must include a turnaround area for delivery vehicles, a parking area for contractors, a covered skip, temporary toilet, power, and a site container if necessary. No parking, loading, unloading, hosing off, or turning around is permitted on the road, berms, or vehicle crossings.
26. Each Lot must include a parking area on the Lot for a minimum of 4 vehicles in the Approved Plans. For the avoidance of doubt, on-site parking may include parking within a garage, carport, or in the private driveway.
27. Driveways shall be constructed in black asphalt to reduce the visual effects. The construction of the driveway must be tied in neatly and align with the vehicle crossing at the Lot/road boundary.
28. No garage entrance or car parking area shall be visible from any viewpoint on the New Plymouth Coastal Walkway.
29. The vehicle crossing for each Lot will be constructed by the Developer and maintained by the OOAL to the Lot boundary following the construction of the building and landscaping. The Burdened Owner may not alter the location and design of the vehicle crossing.

#### Height and Bulk

30. No buildings (including pool houses, pools, or other structures) may be constructed, placed, or erected outside the Curtilage Area (other than the perimeter fencing of the Subdivision).
31. Buildings can cover up to 500 square metres or 80% of the Curtilage Area of each Lot, whichever is lesser.
32. The maximum height of all Buildings (metres above sea-level – Taranaki Datum 1970) within the Curtilage Areas of each Lot is outlined as follows:

Lot Number	Maximum Finished Ground Level (FGL) of Curtilage Areas	Maximum Height of All Buildings (Metres above Sea-Level)	Maximum Permitted Number of Storeys for All Buildings
1	28 metres	35 metres	1.5 (split-level)
2	28 metres	35 metres	1.5 (split-level)
3	27.5 metres	34.5 metres	1.5 (split-level)
4	26.5 metres	33.5 metres	1.5 (split-level)

5	23.5 metres	27.5 metres	1
6	23.5 metres	27.5 metres	1
7	23.5 metres	27.5 metres	1
10	16.5 metres	20.5 metres	1
11	27.5 metres	31.5 metres	1
12	16 metres	20 metres	1
13	13.5 metres	17.5 metres	1
14	14.5 metres	18.5 metres	1
15	17 metres	22.5 metres	1.5 (split-level)
16	13 metres	17 metres	1
17	13.5 metres	17.5 metres	1
18	17 metres	22.5 metres	1.5 (split-level)

### Construction

33. All buildings be completed (including affixing of all exterior cladding, completing exterior painting/stainin), in accordance with the Approved Building Plans within 24 months of the Start-Up Meeting.
34. A Burdened Owner may apply to the Design Review Board to phase the construction of the Buildings and landscaping as part of the submission to the Design Review Board. The plans submitted to the Design Review Board must clearly identify the proposed phases. If the Approved Plans provide for works to be completed in phases, each phase must be completed in full within 24 months as provided for in Clause 33.
35. The Burdened Owner must ensure that:
  - a. all bare earth is actively managed during construction to minimize potential wind erosion, dune disturbance, silt, and dust on adjacent properties; and
  - b. all exposed sand areas are immediately dampened down with ongoing watering and sand surface stabilization such that the maximum time period for any area of sand to be exposed is 3 days;
  - c. no earth or other materials are deposited onto the road or public spaces during construction;
  - d. all skip bins are fitted with lids and that all rubbish is packed away, and the lid on the skip bin is fastened closed, each day.
36. The Burdened Owner shall ensure that building platforms and driveways are designed by a registered engineer. The Burdened Owner is responsible for maintaining structure stabilization within the Lot Boundary.
37. Each Burdened Owner must notify the Developer of any damage to items provided by the Developer immediately. Any damage to the any such items (including, but not limited to, vehicle crossings, retaining, planting, berms, road, kerbs and entrance gate) during construction will be repaired like for like by the Developer at the Burdened Owner's cost. Any amounts so owing by the Burdened Owner will be deducted from the Construction Bond. The Burdened Owner will be notified of any such deduction in writing. Damage outside the construction period or over and above the amount of the Construction Bond will be invoiced to the Burdened Owner and will be payable immediately on demand. If any Burdened Owner damages any items provided by the Developer or otherwise owned by OOAL after the completion of construction, OOAL shall repair such items at the Burdened Owner's cost.
38. A Burdened Owner may keep one container on a Lot for the construction period up to a maximum of 24 months after the date of from the Start-Up Meeting, the location of this will be agreed at the Start-Up Meeting provided for in clause 9c.

39. The Burdened Owner, including its agents, contractors and invitees shall:
  - a. be wholly responsible for complying with all health and safety requirements on the Burdened Lot and private road during construction and subsequently;
  - b. comply with any health and safety requirements promulgated by the Developer or OOAL at any time, including reasonably to co-operate with any other Lot Owner.

#### Utilities

40. Any utilities, including but not limited to plant and equipment, air conditioning units, rubbish bins, gas bottles, water tanks, service metres, satellite dishes, and washing lines shall be concealed from the road, public spaces, and neighbouring properties.
41. Solar panels are only permitted to be used on roofs. Any such solar panels shall not protrude more than 200mm above the roofline of any Buildings on the Burdened Lot (or shall otherwise be concealed from view).
42. Each Burdened Owner must ensure that a stormwater re-use system (to utilise stormwater on-site and prevent discharge to other Lots or the roadway) is suitably designed and provided for in the Approved Building and Landscape Plans for the Lot. Each Burdened Owner must maintain the system installed on their Lot to recommended standards. The tank should be located within the Curtilage Area underground not visible from the road or public spaces.
43. Burdened Owners on Lots 7, 10, 12,13, 14, 15, 16, 17 and 18 must ensure that a wastewater pump station is installed underground to pump sewerage to Manhole 5 via the common rising main. Burdened Owners on Lots 5 and 6 must ensure that a wastewater pump station is installed underground to pump sewerage to Manhole 4 via the individual rising mains. Any such pump stations must incorporate the pump specified in the Consent Notice, or alternative pump with equivalent performance characteristics (subject to Council approval). The pump station system should be located inside the Lot boundary and installed and maintained by the Burdened Owner, at the Burdened Owner's cost, as per the recommended standards specified in the Consent Notice and the manufacturer's recommendations.

#### Fencing and Landscaping

44. The landscape plan for the Curtilage Area must be approved by the Design Review Board prior to construction of any buildings. All landscaping (including completing planting, and sowing grass) must be completed in accordance with the Approved Landscaping Plans and by the earlier of the date that is 30 months after the date of the Start-Up meeting and the date that is six months after completion of the buildings in accordance with the Approved Building Plans.
45. The perimeter of the subdivision will be fenced from Hickford Park by the Developer in 1.2-metre-high post and seven wire fencing. This fencing will be maintained in good condition by OOAL, at OOAL's expense. The Burdened Owner shall not alter or remove the perimeter fence. Any damage to the perimeter fencing shall be repaired or replaced like for like by OOAL at OOAL's cost (provided that if the fence is damaged by the Burdened Owner, the Burdened Owner shall meet that cost). Any protective signs attached to the subdivision perimeter fencing shall not be damaged or removed.
46. No other fences are permitted on any Lot outside the Curtilage Area. Within the Curtilage Area on any Lot, dog-proof or pool fencing is permitted if approved as part of the Approved Landscape Plan.
47. Dogs must be restrained within the Curtilage Area on each Lot using a containment system detailed in the Approved Landscape Plan.
48. Any pool fencing required on any Lot shall be included in the Approved Building Plan and Approved Landscape Plan.

49. No permanent screens are permitted on any Lot. Areas should be separated using the form of the buildings, land, or suitable planting.
50. No gates are permitted on any Lot except for gates in approved fences detailed in the Approved Building and Landscape Plans.
51. Any additional retaining or slope stabilization on any Lot shall not exceed 1.5 metres in height (with no more than 1 metre in height visible from the New Plymouth Coastal Walkway) and shall be provided for in the Approved Building Plan and Approved Landscape Plan. The Developer may promulgate permitted designs from time to time.
52. Any contouring on any Lot within the Curtilage Area should integrate with the existing topography.
53. Any boundary planting or planting within the Curtilage Area on any Lot should be respectful of the views and sunlight of neighbouring Lots.
54. All landscaping projects on each Lot are to be completed to a standard expected of a professional landscaper, including appropriate use of mulch, topsoil, fertilizer, and quality of plants.
55. All planting on each Lot should flow through from the Curtilage Areas to the Dune Management Areas. Exotic or formal planting must be confined to the Curtilage Area.
56. Materials used for hard landscape features and structures such as decks, paving, fireplaces, sculptures on each Lot are to complement the building materials and be detailed in the Approved Landscape Plan.
57. Any glasshouse, garden shed, or other structure/ancillary building (including sheds) on any Lot shall be considered within the overall building and landscape design and finished in the same approved materials, colours, and design as the Building and must be provided for in the Approved Building Plan and Approved Landscape Plan. Glasshouses must not be visible from the road or public spaces. For the avoidance of doubt, any glasshouse must comply with all restrictions relating to reflective surfaces.
58. Subject to clause 59, each Burdened Owner must maintain any items (e.g. planting, house numbers) provided by the Developer on their Lot in good condition and must not alter or remove such items. If any such items are damaged, the Burdened Owner must repair or replace the item like for like.
59. The Burdened Owner shall maintain landscaping on the Burdened Lot within the Curtilage Area in accordance with the Approved Landscaping Plan. Responsibilities for maintaining plantings on each Lot outside the Curtilage Area shall be as follows:
  - a. Areas that are mulched (*Mulched Areas*) shall be maintained by the Burdened Owner at the Burdened Owner's cost provided:
    - I. that the Burdened Owner may not remove any plants from those Mulched Areas other than to replace dead or dying plants on a like for like basis; and
    - II. the Burdened Owner may only add plants in accordance with the requirements of the Consent;
  - b. Areas on lots 5, 10 and 11 that are unmulched (*Unmulched Areas*) shall be maintained by OOAL at OOAL's cost. The Burdened Owner shall not add to, alter, or remove any plantings in the Unmulched Areas in any way.
60. The OOAL shall be responsible for undertaking all work to ensure compliance with the Dune Management Plan on each Lot for a period ending at the earlier of the fifth anniversary that planting (in accordance with the Dune Management Plans) is completed within the Dune Management Areas on that Lot, or the date that an expert engaged by OOAL determines that the planting is successfully established (with that period being *OOAL Dune Management Responsibility Period*). After the end of the OOAL Dune Management Responsibility Period, the OOAL will continue to be responsible for the



on-going aftercare and management of the dunes in accordance with the Dune Management Plan unless agreed otherwise by the OOAL, in which case the Burdened Owner shall be responsible for the cost of such aftercare and management on the Burdened Lot. Any damage to the Dune Management Areas shall be repaired or replaced like for like by OOAL at OOAL's cost, provided that if the damage is caused by the Burdened Owner, the Burdened Owner shall meet that cost.

61. Each Burdened Owner must allow the Developer and/or OOAL (including their contractors and nominees) access to the Dune Management Areas to undertake such planting, aftercare and maintenance as the Developer and/or OOAL considers reasonably necessary to comply with the Dune Management Plan and the Consent Notice.

Oceanside Owners' Association Limited

62. All Burdened Owners must, on becoming the registered owner of a Burdened Lot:
  - a. be a shareholder in OOAL;
  - b. remain a shareholder for as long as they are the registered owner of a Burdened Lot;
  - c. fulfil and continue to fulfil the obligations of a shareholder as set out in the constitution and rules of OOAL including, without limitation, ensuring that any transferee of the Burdened Lot executes a deed of covenant, in favour of OOAL, agreeing to be bound by these covenants;
  - d. ensure that on any dealing with a Burdened Lot that results in a change in the registered owner of the said Burdened Lot, that the transferor's share in OOAL is transferred to the transferee simultaneously with the transfer of the Burdened Lot and not transfer the share otherwise; and
  - e. sign an entitled person's agreement concurring to the exercise of the power generally to issue shares in OOAL pursuant to section 107(5)(b) of the Companies Act 1993 in accordance with the constitution of OOAL.
63. Each Burdened Owner must pay an annual subscription to OOAL of \$2,000 per year (plus GST, if applicable), such amount may be adjusted annually by the percentage change in the Consumers Price Index – All Groups, with the base year being the year commencing 1 April 2021. For the avoidance of doubt, nothing in this clause prevents OOAL resolving to amend the annual subscription, or to raise further amounts, to meet the costs of OOAL-owned facilities or to meet other expenses, provided that the annual subscription in any year may only be reduced or increased from the annual subscription in the previous year with the unanimous approval of all Lot Owners
64. OOAL will own the private way forming the road access to the Subdivision. In addition, OOAL will be responsible for:
  - a. maintaining the private way (including subdivision entrance crossing), vehicle crossings and culverts, and the associated green space (including walls, swales, gardens, walkway), services to the boundary of each Lot (limited to lighting, security, power, gas, and fibre if applicable), rubbish collection area, the perimeter fencing of the subdivision and the Dune Management Areas each in good condition;
  - b. being a single point of contact for New Plymouth District Council for sewer and water repairs and maintenance which may affect the private way and/or stormwater control;
  - c. indemnifying New Plymouth District Council in respect of rubbish services provided to Lot Owners on the private way; and
  - d. such other matters as the OOAL may determine from time to time in accordance with its constitution.

For the avoidance of doubt, the OOAL will not be responsible for the cost of repairing the vehicle crossings for each Lot during the construction period. Any such damage shall be dealt with as provided for in clause 9b, 29 and 37. Sewer pumps (Clause 43) on individual lots are the responsibility of the Lot Owner.

65. Without limiting OOAL, and as a statement of non-binding intent only, the Developer intends that for the first five years following the deposit of the Plan for stage one of the Subdivision, the subscription fees paid to OOAL will primarily be used to fund costs associated with the maintenance and aftercare programme of the Dune Management Plan.

#### Pets

66. No Burdened Owner may keep cats, mustelids or rodents on any Burdened Lot, whether as pets or otherwise.
67. Domestic animals (but excluding, for the avoidance of doubt, cats, mustelids and rodents) may be kept as pets on any Burdened Lot. For the avoidance of doubt, livestock (including poultry), goats, pigs, horses, sheep, and wild animals are not permitted on any Burdened Lot.

#### Compliance and Use

68. Each Lot shall be kept in a neat and tidy condition at all times (prior, during, and post construction) including regular mowing of grass.
69. A Burdened Owner may rent out any Burdened Lot provided that no Burdened Lot (or any part of it) may be let for a period of less than 30 days. Any Burdened Owner who rents out a Burdened Lot must obtain from any tenant an undertaking to comply with these covenants, and the constitution and rules of OOAL at all times.
70. No industrial, commercial, or retail activities are permitted on any Lot at any time provided that nothing in this clause applies to the Designated Lot, which may be used for hospitality, retail or other purposes for the benefit of the Subdivision at the Developer's discretion. For the avoidance of doubt, Burdened Owners are permitted to work from home subject to the other restrictions in this instrument and provided that such occupation does not affect any other Lot Owner.
71. No advertising hoarding or signage is permitted on any Lot at any time after the completion of construction on that Lot. Signage, other than that provided by the Developer or OOAL, may not be affixed to the perimeter fencing.
72. During the Developer Enforcement Period:
  - a. the Developer has the exclusive right to enforce the Land Covenants provided that no covenant to enforce the Land Covenants against any Lot Owner shall be implied against the Developer and no Lot Owner shall have any claim against the Developer arising from the Developer's failure to enforce any covenant;
  - b. the Developer reserves the right to waive any of the above restrictive covenants at its sole discretion provided that it will only do so if the waiver does not impinge on the integrity of the Subdivision.
73. The Covenantor shall, at all times hereafter, keep the Developer indemnified from all proceedings, costs, claims and demands in respect of any breaches by the Covenantor of any of these land covenants.
74. Each Burdened Owner shall consent to any future development of the Land by the Developer and will not object to, nor do anything to oppose, object to, frustrate, or take any action, or encourage or cause others to oppose, object to, frustrate or take action that might in anyway hinder, prevent or interfere with the future development of the Land by the Developer.
75. The covenants created herein shall cease to have any effect on any of the Burdened or Benefited Lots, or part/s thereof, that will vest in a Territorial Authority or the Crown by virtue of statute, transfer or otherwise, whether as road, reserve, or for any other purpose, including in any subsequent subdivision of the Burdened or Benefited Lots of which the subdivision plan has gained the full approval of the Territorial Authority or body having jurisdiction. The person/s or corporation/s benefiting from the land covenants herein shall not be entitled to any compensation in respect of the exercise of this clause.

## **MINIMUM PROVISIONS**

The Developer will provide the following to all landowners at Oceanside:

- An building platform certified for light building construction
- Approved retaining designs
- A vehicle crossing
- Initial planting in general accordance with the Dune Management Plan
- A letterbox and/or house number
- Subdivision perimeter fencing as per the Resource Consent
- Power, fibre, and gas to the Lot boundary
- Connection to NPDC reticulated water and, subject to clause 43, sewer systems.

# Annex B

This approved format may be used for lodgement as an electronic instrument under the Land Transfer Act 2017

## Form 26

### Covenant Instrument to note land covenant

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

#### Covenantor

The Green Limited  
Oceanside Owners Association Limited

#### Covantee

New Plymouth District Council

#### 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) 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
Restrictive Covenant		Lots 1-18 DP 556702	In gross

This approved format may be used for lodgement as an electronic instrument under the Land Transfer Act 2017

**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].

the Annexure Schedule attached.

*Insert instrument type*

Land Covenant (in gross)

*Continue in additional Annexure Schedule, if required*

**Background**

- A The Covenantors are, variously, the registered owners of the Burdened Lots and the Access Lots.
- B The Covenantors wish the Covenantee to provide Rubbish Services to the Burdened Lots along the Access Lots, which is a private way. The Covenantee has agreed to provide Rubbish Services on the basis that the Covenantors indemnify the Covenantee against any damage to the Access Lots caused by the Covenantee in providing the Rubbish Services, providing that the Covenantee is acting reasonably.
- C The Covenantee has also agreed that the Developer can finish the surface of the Entrance-Way vehicle crossing at the end of Pebble Beach Court in aggregate, on the basis that the Covenantors be responsible for the marginal additional cost of maintaining the Entrance-Way in aggregate, over and above the Covenantee's usual standard.

**Interpretation**

In this Instrument:

- "Access Lots" means Lots 8-9 DP 556702 owned by OOAL;
- "Burdened Lots" means Lots 1-7 and 10-16 & 18 DP 556702;
- "Burdened Owners" means the registered owner of each Burdened Lot from time to time.
- "Covenantor" includes the Burdened Owner and OOAL;
- "Covenantee" means New Plymouth District Council and includes its agents and contractors;
- "Developer" means The Green Limited;
- "Entrance-Way" means the Entrance-Way vehicle crossing into the Access Lots at the end of Pebble Beach Court;
- "OOAL" means Oceanside Owners Associated Limited, which is the registered owner of the Access Lots;
- "Rubbish Services" means the collection of rubbish and recycling by the Covenantee (or its agents or contractors) from the Burdened Lots along the Access Lots;
- "Subdivision" means the subdivision comprising the Burdened Lots and the Access Lots, known as Oceanside.

**Covenants and Conditions**

The Burdened Owner as registered owner of each of the Burdened Lots, and OOAL as registered owner of the Access Lots, covenant for the benefit of the Covenantee (in gross) as follows:

1. The Covenantors will not make any claim against the Covenantee arising from, or in relation to, the Covenantee causing damage to the Access Lots in providing Rubbish Services provided that the Covenantee is acting reasonably in providing the Rubbish Services.
2. The Covenantors will, on demand, indemnify the Covenantee against any loss, cost, claim or expense incurred by the Covenantee arising from the Covenantee damaging the Access Lots while providing Rubbish Services, provided that the Covenantee is acting reasonably in providing the Rubbish Services.
3. The Covenantors will be responsible for the marginal costs incurred by the Covenantee in maintaining the Entrance-Way in aggregate, over and above the costs that the Covenantee would have otherwise incurred in maintaining the Entrance-Way to the Covenantee's usual standards for roads equivalent to the Entrance-Way.