

Insert instrument type

Land Covenants

It is intended that the land in Certificates of Title 749844 to 749850 (inclusive) ("Lots") shall be subject in perpetuity to and shall have the benefit of certain covenants as set forth in Schedule One to this Instrument TO THE INTENT that each of the residential lots ("the servient Lots") shall be bound by the stipulations and restrictions set out in Schedule One for the benefit of each of the other Lots ("the dominant Lots") and that the owners and occupiers for the time being of any of the dominant Lots may enforce the observance of such stipulations and restrictions against the owner and occupier for the time being of any of the servient Lots.

As incidental to the within instrument the parties hereby covenant as set out in Schedule One to the end and the intent that each of the servient Lots shall be subject to the covenants set forth in Schedule One hereto for the benefit of the dominant Lots and that any of the owners and occupiers for the time being of the dominant Lots may enforce the observance of such stipulations and restrictions against any of the owners for the time being of the servient Lots PROVIDED ALWAYS that the owners of the servient Lots shall as regards the stipulations and restrictions be personally liable only in respect of breaches thereof which shall occur while they are registered proprietors of the servient Lots in respect of which any such breach shall occur (or is alleged to occur).

All covenants set forth in Schedule One to this instrument shall remain in force until 1 January 2040 and are enforceable by Carrus Limited ("Aotea") at their sole discretion.

SCHEDULE ONE

1. One single new residential dwellinghouse/primary building and associated ancillary building can be erected on the Lot, or any other building may be erected with the prior written approval being obtained by Aotea.
2. Not to erect or allow to be erected a dwellinghouse/primary building of a floor area less than 140 square metres (the floor area measurement to be exclusive of garage, carports, decking, breezeways, entry porches, verandas and roof overhang). ALL dwellinghouse/primary building plans and siting of the dwellinghouse/primary building are to be approved in writing by Aotea prior to application for a Building Consent, and/or commencing site works, pegging out or preparatory work on lot for the erection of such a dwellinghouse/primary building. In determining whether or not to approve the plans and specifications, Aotea will take into account both the appearance of the proposed dwellinghouse/primary building and the appearance of other dwellinghouses/primary buildings in close vicinity to the said dwellinghouse/primary building to the intent there should be a range of style, design and appearance of dwellings within the subdivision.

The written approval of Aotea is for the subdivision standard control purposes only and implies no warranty as to the product, design, quality or suitability of the dwelling house/ primary building on the said lot in any manner whatsoever.

The Grantor shall construct the said dwellinghouse/primary building in accordance with the plans approved in writing, however any modification or variation to the plans already approved by Aotea for the said dwellinghouse/primary building shall require further written approval by Aotea prior to such modifications or variations commencing.

3. To construct any dwellinghouse/primary building with a minimum of 60% of the non-glazed exterior cladding of the dwellinghouse/primary building consisting of any of the following materials: kiln fired or concrete brick, plaster or cement texture finish, stone, linea, or timber weatherboard with a maximum erected width not exceeding 150mm, or any other exterior cladding material for which the Grantor has first obtained Aotea's consent in writing. The approval of Aotea is for subdivision standard control purposes only and applies no warranty to the quality or products used or their suitability to the dwelling house/ primary building in any manner whatsoever.

All exterior surfaces which are not pre-colour coated or finished shall be painted or stained prior to the dwellinghouse/primary building being occupied unless approved otherwise in writing by Aotea.

Where a dwellinghouse/primary building has a basement, exposed subfloors, framing and/or decks, the exposed areas shall be under clad or sheath-lined out in permanent materials in conformity with the main parts of the residence unless approved otherwise in writing by Aotea.

4. Any dwellinghouse/primary building or garage wall predominantly facing the road frontage must include at least one window or feature unless approved otherwise in writing by Aotea.
5. The final colour of the exterior cladding of those areas of the dwellinghouse/ primary building predominantly facing all road frontages is to be of subdued or non-vibrant colours unless otherwise approved in writing by Aotea.
6. To construct a minimum of one garage which is to be attached to the dwellinghouse/primary building unless approved prior in writing by Aotea. The garage must be constructed in the same architectural style with the same cladding materials as the dwellinghouse/primary building.

Unless approved otherwise in writing by Aotea, all other sheds, structures or buildings are not to extend beyond the front building alignment of the dwellinghouse/primary building, are to have their exterior cladding colours in keeping with the main dwellinghouse/primary building and are to be screened so as not to be highly visible from the street and neighbouring properties.

7. In order not to create a glare offensive to adjoining property owners, not to use any metal clad roofing that has not been factory pre-painted or use any roofing material which exceeds 20% reflectivity as measured on the British Standard Specification Colour Range BS5252 or equivalent.

Not to use reflective surfaces or bright colour finishes on any exterior cladding or roofing on the dwellinghouse/primary building and any other buildings unless approved otherwise in writing by Aotea.

8. Not to subdivide the Lot further unless approved in writing by Aotea.
9. Not to allow on any of the Lots any buildings, structures, driveways, landscaping, signs or fencing to fall into disrepair.

Not to allow to remain on any walls, fence, signs, structure or building on the Lot any graffiti or similar disfiguring for more than 5 working days from the date that such graffiti or disfiguring occurred or was brought to the notice of the Grantor.

10. Not to construct any road on any part of the said Lot which provides access to any other Lot adjoining the said Lot without the prior written approval of Aotea.

11. Unless prior written approval from Aotea is sought, to complete any construction of the dwellinghouse/primary building (including exterior painting and decorating) within 9 months of commencement of excavation of the dwellinghouse/primary building site and further within that 9 month period to construct in a proper and tradesmanlike manner a driveway or vehicle access in a permanent continuous surfacing of concrete, concrete block, brick paving or sealing.
12. Within 6 months of the completion of the dwellinghouse/primary building and prior to undertaking the landscaping work, submit full landscaping plans for the said Lot to Aotea for written approval. Such plans are to encompass fences, paths, driveways, retaining walls, and sufficient plants, trees and shrubs to enhance the street appeal of the said dwellinghouse/primary building. In determining whether or not to approve the plans, Aotea will take into account the appearance of the proposed dwellinghouse/primary building and surrounding dwellinghouses/primary buildings and streetscape.
- Further, within 6 months of the completion of the dwellinghouse/primary building, interior window furnishings shall be hung, lawns are to be laid, and reinstatement of the Local Authority owned land (road reserve) in front of the Lot shall be completed unless prior written approval from Aotea is given.
13. Except for driveways, not to carry out landscaping on the road frontage of the Local Authority owned land except in accordance with the general overall landscaping plan prepared by Aotea and approved by the Local Authority.
14. To keep and maintain in a neat and tidy condition and prevent from becoming unsightly at all times, the Lot and the Local Authority owned road frontage (road reserve) of the Lot from the date the Grantor takes possession of the Lot.
15. Not to bring on to, or to allow to remain on the said Lot (except during the time of construction of the dwellinghouse/primary building), or on any road of the subdivision or any Local Authority owned land any
- vehicle (including recreational and trade vehicles) with a gross laden weight exceeding 3,500 kgs;
 - temporary building (including sheds);
 - caravan, motorhome;
 - trailer;
 - or any other equipment, materials or machinery;
- unless garaged or adequately screened so as not to be highly visible from the road frontage or to prevent noise likely to cause offence to residents.
- No caravan, motorhome, boat, vehicle (including recreational and trade vehicles) with a gross laden weight exceeding 3,500kgs, bus or other equipment or materials or machinery or trailers are to be regularly located on the street or footpath.
- No caravan, motorhome, boat, vehicle (including recreational and trade vehicles), bus or other equipment or materials or machinery or trailers shall have any maintenance or repair work carried out on the street, footpath or other Local Authority owned land.
- Any bus, recreational vehicles and boats should be adequately screened so as not to be highly visible from the road frontage and neighbouring Lots or to prevent noise likely to cause offence to residents unless prior written approval of Aotea is given and meets Local Authority requirements.
- No vehicle, caravan, bus or motorhome shall be placed on the said Lot to be used for residential use other than for short term occupation of visitors for a period not exceeding 2 months in any 6 month period.

16. Except during construction not to erect any fence constructed of shade cloth, netting, iron or steel of any profile untextured woodfibre, cement panels, plywood, fiberlight or post and wire unless prior written approval of Aotea is given. All final and permanent fences and retaining structures are to comply with Local Authority requirements and no fence, hedges or retaining structures (excluding Aotea's sub divisional walls) shall exceed 1.0 metre in height above Aotea's finished ground level of the property within 3 metres of the road frontage boundary, except for corner Lots for which the written approval of Aotea is to be sought or to exceed 1.83 metres in height elsewhere on the property.

All lots shall comply with Local Authority conditions. Should a fence and retaining structure (not covered by Local Authority conditions) be built as one, the measurements shall not exceed 2.5 metres above the subdivisions finished ground level. Further any fence forming part of that structure shall not exceed 1.83 metres in height above the retaining wall. Any variation to this clause shall require Aotea's written approval at which time, Aotea will take into account the appearance of the proposed structure in relation to the design and streetscape appearance.

17. To pay for construction and maintenance of any fence constructed on the boundary of any adjoining land owned by the Local Authority and not to seek contribution from Aotea or the Local Authority for such construction or maintenance cost.

18. Not to alter, interfere with, paint, add to or otherwise change the entrance walls or features, or their fittings or attachments including any hedges, apart from the maintenance thereof without the prior written approval of Aotea.

19. Not to permit the Lot to be occupied or used as a residence unless the dwellinghouse/primary building on the Lot has been substantially completed in accordance with these covenants, and the Local Authority Code of Compliance Certificates have been issued for the dwellinghouse/primary building.

Further, not to permit the garage or other buildings (except the dwellinghouse/ primary building) erected on the said lot to be lived in without the prior written approval of Aotea.

20. Not to permit the Lot, dwellinghouse/primary building, garage or other outbuildings on the said Lot to be used on a commercial basis unless prior written approval of Aotea is sought and all Local Authority requirements are met.

21. Not to display more than one advertisement, sign or hoarding of a commercial nature measuring in excess of 1000mm x 1000mm on any part of the Lot, dwellinghouse/primary building or Local Authority land unless first approved in writing by Aotea. Each sign must be kept in good condition at all times.

22. Within three months of completion of the dwellinghouse/ primary building on the said Lot, to construct a letterbox that is aesthetically sensitive in terms of quality, design and location and not to site any such letterbox on Local Authority owned land. Not to site any clothesline in such a way as to be highly visible from the street or neighbouring lots. The final location and design of such clothesline and letterboxes shall be at the sole discretion of Aotea. Should consent be required, it shall be by way of prior written approval from Aotea.

23. The Grantor shall use its best endeavours to locate any attachments around or on the dwellinghouse/ primary building (including but not necessarily limited to television antenna, solar hot water panels and air conditioning units) so they are not highly visible from any road frontages.

24. To ensure due allowance is made for adequate current and future drainage of all stormwater from the Lot, such stormwater drainage not to be detrimental to the water quality of the stormwater network. The Grantor shall also ensure that no discharge from the Lot whether of a soluble or insoluble nature shall occur. The Grantor is responsible for all costs, claims or demands for any remedial action undertaken for any breach thereof.
25. Before the commencement of construction, the Grantor shall erect either a temporary or permanent fence around the perimeter of the said Lot to define the construction zone. Any temporary fencing erected for the construction phase of the dwellinghouse/primary building shall be removed within 8 weeks of construction being completed.
26. Not to allow contractors and subcontractors to commence work on the site without first informing them of the restrictions created by these covenants and ensuring their compliance therewith.
27. Before construction of the said dwellinghouse/primary building, stockpiling and storage of materials is strictly prohibited on the Lot.

Before, during and after construction, the use of adjacent or abutting land and footpaths for access is strictly prohibited, provided however that the Grantor or the Grantor's agents or invitees may only have access across any other Lot upon obtaining prior written approval from the owner and/or Aotea with the owner's authority. Stockpiling and dumping of rubbish is strictly prohibited. Once construction has commenced the Grantor shall ensure container bins are kept on the said Lot for the accumulation and disposal of all rubbish. When necessary all such rubbish shall be removed.
28. The Grantor shall ensure that all landscaping, berms, roading, footpaths and kerbs are kept clean and free from debris prior, during and after construction.

The Grantor shall reinstate, replace and be responsible for all costs arising from damage to the landscaping, berms, roading, footpaths, kerbs, streetlights, street signs, concrete or any other structures in the subdivision arising from the Grantor's use of the Lot directly or indirectly through the Grantor's actions or those of the Grantor's agents, consultants, contractors or invitees.
29. Not to bring on to raise, breed or keep any animals, reptiles, poultry or livestock on the Lot or buildings except to keep a maximum of three animals limited to dogs or cats, unless prior written approval is given by Aotea and is in keeping with Local Authority regulations. All animals shall not be allowed to become a nuisance to others in the subdivision and all dogs shall be controlled so as to prevent them from roaming the subdivision at will.
30. Where Aotea has been dissolved or wound up or otherwise gone out of existence, "approval by Aotea" shall mean approval by any party appointed and/or nominated by Aotea for this purpose.

31. The Grantor covenants that they will at all times save harmless and keep indemnified Aotea from all proceedings, costs, claims and demands in respect of breaches by the Grantor of any of the stipulations, restrictions and covenants contained in the preceding covenants.
32. The burden of these covenants shall not apply to any land vested or to be vested in the Porirua City Council as open space, reserve (within the meaning of the Reserves Act 1977) or road (within the meaning of section 315 of the Local Government Act 1974, as contained by the Local Government Act 2002) so long as it remains open space, reserve or road, and
- (a) Aotea reserves the right to waive or consent to the vesting of such land in Porirua City Council as open space, reserve or road, free of any such covenants;
 - (b) the Grantor, for itself and any person claiming an interest in the land through or under the Grantor, appoints Aotea as its attorney to exercise the powers set out in 32(a);
 - (c) the production of an agreement signed by the Grantor containing or annexing these covenants shall be sufficient authority for the exercise of the powers set out in clause 32(a).
33. Notwithstanding clause 32 the benefits of these covenants so far as they are applicable to any land within a distance of 0.5 kilometres from any open space, reserve or road vested in the Council, shall extend to the Council; and the Grantor agrees that these covenants confer a benefit on the Porirua City Council for the purposes of the Contracts (Privity) Act 1982. The rights conferred by this clause are in addition to, and do not exclude, any other rights which the Porirua City Council may have at law.
34. In any circumstances where Aotea approval is required in respect of any covenant, then any approval shall be at Aotea's sole discretion and in no circumstance shall Aotea be required to give any reason for its decision.

If there should be any breach or non-observance of any of the foregoing covenants and without prejudice to any other liability which the Grantor or Aotea may have to any person having the benefit of this covenant, should the Grantor not rectify the breach or non-observance of any of the foregoing covenants within 15 working days of written notice being made by Aotea or any of the registered proprietors of the Lots, then the Grantor will pay to Aotea or the person making such demands as liquidated damages the sum of \$250 per day for every day that such breach or non-observance continues after the date upon which written demand has been made until the breach is remedied, together with any costs and expenses incurred by Aotea or any registered proprietor to remedy the breach or non-observance.