

View Instrument Details



Instrument No 12036913.2
Status Registered
Date & Time Lodged 12 March 2021 16:06
Lodged By Churstain, Fiona Jane
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
902450	South Auckland
902451	South Auckland

Annexure Schedule Contains 7 Pages.

Covenantor Certifications

I certify that I have the authority to act for the Covenantor and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Leah Rose Caddigan as Covenantor Representative on 29/03/2021 10:25 AM

Covenantee Certifications

I certify that I have the authority to act for the Covenantee and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Leah Rose Caddigan as Covenantee Representative on 29/03/2021 10:25 AM

*** End of Report ***

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Form 26

Covenant Instrument to note land covenant

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

Covenantor

EXPRESS DAIRIES LIMITED PARTNERSHIP

Covenantee

EXPRESS DAIRIES LIMITED PARTNERSHIP

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 Covenant	539520	902451	902450

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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 one].

Land Covenants

WHEREAS the land contained in Record of Title 902451 (herein referred to as the "Burdened Land"), is to be sold.

AND WHEREAS a Land Covenant is to be registered for the benefit of the adjoining land contained in Record of Title 902450 (herein referred to as the "Benefitted Land")

AND WHEREAS the Land Covenant is to create obligations in relation to Burdened Land.

AND WHEREAS the Burdened Land shall be bound by the stipulations and restrictions set out in Schedule B hereto **TO THE INTENT THAT** the owners and occupiers for the time being of the Benefitted Land may enforce the observance of such stipulations against the owners for the time being of the Burdened Land **SO AS** to bind each owner of the Burdened Land for the benefit of the other Lot respectively.

AND WHEREAS the Land Covenant is to run with the Burdened Land respectively for the benefit of the Benefitted Land.

AND WHEREAS the substantive terms are to include these provisions:

- A. The owner of the Burdened land will at all times observe and perform all the covenants contained in Schedule B ("Covenants") to the intent that each of the Covenants will forever enure for the benefit of and be appurtenant to the Benefitted Land and each and all of the registered proprietors of the Benefitted Land, provided that the owner for the time being of the Burdened Land will be liable only for breaches of the Covenants contained in this document which occur whilst such owner is the registered owner of such land.
- B. If there is any breach or non-observance by the owner of the Burdened Land of any of the Covenants then, without prejudice to any other liability which any such owner may have to the other owners or any person or persons having the benefit of those Covenants, the owner for the time being of the Burdened Land will immediately remedy the breach or non-observance upon written demand made by any of the registered owners of the Benefitted Land:

SCHEDULE A - Which is the Benefitted Land

Record of Title 902450

SCHEDULE B

The Grantor covenants with the Grantee as follows:

1. Use

The owner of the Burdened Land will not use any part of the Property or permit the same to be used for any trading or commercial purpose without the prior written consent of the Grantee.

2. The owners for the time being of the Burdened Land will not:
- (a) Keep on, allow to be kept on, or operate from, the Property:
 - (i) Any commerce, trade, industry or commercial workshop; or
 - (ii) Any cattery or dog-boarding kennels; or
 - (iii) Any poultry farming.
 - (b) Enter upon the Benefitted Land and ensure that its agents, invitees, workmen and animals within its control do not enter upon the Benefitted Land without first obtaining the consent of the owners of the Benefitted Land.

3. No Subdivision or Amalgamation With Regard to the Burdened Land

The owner for the time being of the Burdened Land may not subdivide the Property further in order to create any additional lot or lots whether by fee simple titles, unit titles, or cross leases or otherwise.

4. Construction: Any building erected on the Property must comply in all respects with the requirements of the Territorial Authority.

5. Other Buildings

Any other building or ancillary building erected on the Property shall conform to and comply with this Land Covenant.

6. No Temporary or Related Buildings

The owner for the time being of the Burdened Land may not erect or place or permit to be erected or placed on the Property any second-hand or relocated building or caravan, hut, shipping container, shed, tent or vehicle for use as a dwelling or temporary dwelling or for storage.

7. Restrictions on Materials

The owner for the time being of the Burdened Land may not erect or permit to be erected on the Property any dwelling or any other building or structure:

- (a) That is constructed in part or in full with external second-hand materials (other than bricks or decorative stone); or
- (b) That incorporates or has:
 - (i) Fibrolite, hardiplax, hardiplank, flat ply, flat cladding, concrete block, poured concrete or similar, unless such materials are coated externally with a professionally applied paint, proprietary plaster or rendered finish applied in such a manner as to cover fully the base material(s). This requirement also applies to any sub floor structure which is to be enclosed with an exterior cladding which is to comply with the provisions of this Land Covenant in all respects.

- (ii) Corrugated iron as roofing material or any other roofing material which is primarily metallic (except that colour tile, decramastic tiles and factory pre-painted coloursteel are permitted); or

Unless it complies with the terms and conditions of Land Resource or Building Consents obtained by the owner for the time being of the Burdened Land as the case may be from the Territorial Authority.

No construction project as to a dwelling or any ancillary buildings is permitted on the Burdened Land **UNLESS**:

At least 75% of the exterior cladding of the building incorporates and embraces:

- Stained or painted weatherboard
- Pre-finished metal weatherboard bonded timber
- Linear weatherboard
- Stone
- Solid plaster or textured plaster finish
- Tilt Slab
- Clay or concrete manufactured bricks or blocks

The Owner for the time being of the Burdened Land may not leave the exterior of any dwelling house unfinished or any exterior wall or door unpainted or unstained, except where cedar cladding or decorative stone or brick materials are used.

8. Single Dwelling with Minimum Floor Area

Construction is restricted to the erection of one single dwelling house of no more than one storey. The dwelling house must have a closed-in floor area of not less than 200m² to the exclusion of:

- (a) Any closed-in lock-up garage.
(b) Any verandas, patios and other attached structures.

9. Roofing and Shape of Dwelling

The Owner for the time being of the Burdened Land may not construct a dwelling:

- (a) With a flat roof or a roof of one single pitch; or
(b) Of a single rectangle or single square shape, (after excluding recesses or protrusions for the front and rear entries, verandas, patios, bay windows or other like structures or appurtenances).

10. Fencing

The owner for the time being of the Burdened Land may not erect or permit to be erected any fencing or wall on the Property boundary thereof comprising:

- (a) Materials of wire, wire netting, corrugated iron or plywood sheeting; or
- (b) Any untextured flat fibre cement sheeting; or
- (c) Any untextured fibrolite, hardiflex, hardiplank or the like; or
- (d) Long run roofing material, flat iron or the like.

11. Immobile Vehicles

The owner for the time being of the Burdened Land may not allow any immobile or broken down vehicles to be placed or sited on the Property in a position so as to be visible from a public road or the adjoining farmland.

12. No Complaints about the farming operations on the Adjoining Farm

The owner of the Burdened Land covenants for the benefit of the owner of Benefitted Land that no complaints will be made to the local authorities namely the Waikato District Council or the Waikato Regional Council or their respective successor entities concerning the effects on the environment of the farming operations conducted on the Benefitted Land. The owner of the Burdened Land further covenants for the benefit of the owner of the Benefitted Land that no submissions will be made in support of any complaints. Such complaints may concern but are not limited to:

- (a) The noise of the farming operations.
- (b) The odour of the farming operations.
- (c) The spray drift from any of the farming operations.
- (d) The dust created by the farming operations.
- (e) The making of silage, baleage and other pastoral products on the Benefitted Land.
- (f) The cultivation of the Benefitted Land.
- (g) The keeping of livestock on the Benefitted Land.
- (h) Machinery, vehicular and livestock movements associated with the farming operations.
- (i) Any other environment effects associated with the farming operations.
- (j) The use of roads to move stock.
- (k) The spreading of fertiliser on the Benefitted Land.

PROVIDED THAT the owner for the time being of the Benefitted Land must at all times act within the requirements of:

- (a) The Resource Management Act 1991 and its successor legislation;
- (b) Any Resource Consent which may have been granted in relation to the Benefitted Land.
- (c) Any other Statutory or Regulatory Authority which have a direct bearing on the operation of a farm.

13. Dispute Resolution

If a dispute in relation to any of these land covenants arises, the following processes must be followed:

- (a) The party initiating the dispute must provide full written particulars of the dispute to any other party/ies;
- (b) The parties involved must promptly meet in good faith to try and resolve the dispute;
- (c) The dispute is not resolved within fourteen working days of the written particulars being given to the party/ies the dispute must be referred to arbitration in accordance with the Arbitration Act 1996 (or any subsequent Act);
- (d) The arbitration must be conducted by a single Arbitrator to be agreed between the parties, or failing agreement the President of the New Zealand Law Society; and
- (e) The decision made by the Arbitrator is binding on all parties mentioned and implied.

14. Duration of the Land Covenants

The Land Covenants shall run for a period of 100 years from the date of registration of this instrument.