

# COVENANT INSTRUMENT TO NOTE LAND COVENANT

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

Approval  
2018/6263  
Registrar-General of Land

## Covenantor

WFH PROPERTIES LIMITED

## Covenantee

WFH PROPERTIES 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 covenants(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 attached Annexure Schedule	See attached Annexure Schedule	See attached Annexure Schedule

## Covenant rights and powers (including terms, covenants and conditions)

Delete phrases in [ ] and insert Memorandum number as require; 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 2 ]

## **ANNEXURE SCHEDULE 2**

The Covenantee when registered owner of the land formerly contained in Record of Title 850584 subdivided the land into lots in the manner shown and defined on Deposited Plan 534851 (hereinafter referred to as the "the Plan").

**WHEREAS** it is the Covenantee's intention to create a high quality subdivision. To enable this to occur it is the Covenantor's intention to create for the benefit of the land set out in Schedule 2C (hereinafter referred to as the "Benefited Land") the land covenant set out in Schedule 2B over the land set out in Schedule 2A (hereinafter referred to as the "Burdened Land")

**AND** so as to bind the Burdened Land and for the benefit of the respective Benefited Land the Covenantor **DOTH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule 2B hereto so that the covenant runs with the Burdened Land set out in Schedule 2A for the benefit of each of the respective registered owners of the Benefited Land as described in Schedule 2C.

### **SCHEDULE "2A"**

<b>Lot No.</b>	<b>Record of Title</b>	<b>Lot No</b>	<b>Record of Title</b>
48	895475	49	895474
50	895473	51	895519
52	895518	53	895520
164	895508	165	895509
166	895510	167	895511
168	895512	169	895513
170	895514	171	895515
172	895516	173	895517
196	895476	197	895477
198	895478	199	895479
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202	895488	203	895489
204	895490	205	895491
206	895492	207	895493
208	895502	209	895503
210	895504	211	895505
212	895506	216	895507
217	895494	218	895495
219	895496	220	895497
221	895498	222	895499
223	895500	224	895501
225	895482	226	895483
227	895484	228	895485
229	895486	230	895487

### **SCHEDULE "2B"**

1. The Covenantor shall not erect on the land:
  - 1.1. any dwelling, building, structure or fence or landscaping:
    - (i) that has not had the sketch plans for same approved by WFH Properties Limited or its appointed agent prior to submission of final plans, specifications and finish.

- (ii) that has the same plan, building shape and materials as any other dwelling within 250 metres of the land.
  - (iii) unless the final plans, specifications and finish have been approved by WFH Properties Limited or its appointed agent provided approval to such plans and specifications shall be deemed to have been given in respect of any building which has been erected and occupied for a period of five (5) years or more without the Covenantee objecting to same.
- 1.2. anything other than a single private dwelling house (including a double garage) with ancillary buildings/structures having a gross floor area, exclusive of verandahs, patios, and outbuildings, of at least 191 m<sup>2</sup>.
  - 1.3. any dwelling or other building which does not satisfy the construction and material requirements set out in Clause 2;
  - 1.4. on any lot being 450m<sup>2</sup> or greater, any building or structure within 3 metres of any boundary adjoining a road except for a side fence or a retaining wall permitted pursuant to clauses 5.6(a) or 5.6(d)(i);
  - 1.5. any building that does not comply with the District Plan side yard set back rules unless a resource consent permitting the non-compliance with the District Plan side yard set back rules as been granted by Auckland Council. In this regard and notwithstanding the rules in the Auckland Unitary Plan, the Covenantor is permitted to follow the blanket consent for Lots 48-53 (inclusive), 164-165, 212, 216 and 230 to infringe the front yard setback to allow a minimum of 3m setback from the front boundary (with the exception where a garage faces the street, then the front wall (containing the garage door) of the garage shall be set back a minimum of 6m from the front boundary) as authorised by Land Use Consent [TBA].
2. Unless WFH Properties Limited or its appointed agent in its full and unfettered written discretion permits a variation or waiver of this Clause 2, the Covenantor shall not erect or place on the land any building, dwelling, carport, garage or other structure:
    - 2.1. unless all roofs are sheathed in either pre-coated metal tiles, chip-coated metal tiles, concrete tiles, clay tiles, asphalt shingles or glass fibre shingles, or Colorsteel® long run roofing products, provided that if concrete tiles are used they may not be red or orange in colour;
    - 2.2. unless exterior walls are sheathed in brick or textured plaster or stone or glass or timber weatherboards or Linea Board or any combination of those materials;
    - 2.3. having fibrous cement products used for exterior finish other than for soffit lining or backing for textured plaster finish.
  3. The Covenantor shall not erect on the land any temporary building or structure whether purpose built or previously erected on other land except as may be necessary during the construction of the permanent buildings provided that all temporary buildings or structures will be removed from the land upon completion of the permanent buildings.
  4. The Covenantor shall not subdivide the land. Subdivide shall have the meaning "subdivide land" set out in Section 218 of the Resource Management Act 1991.
  5. The Covenantor shall not permit or suffer on the land;
    - 5.1. unpainted sheds or unpainted garages;

- 5.2. any garden shed that is visible from any road, jointly owned accessway lot or Reserve;
- 5.3. any buildings in the course of construction to be left without substantial work being carried out on them for a period of two or more months;
- 5.4. any rubbish including garden or household waste to accumulate or be placed upon the land or permit any excessive growth of grass so that it exceeds 100 mm in height or otherwise becomes unsightly;
- 5.5. any removal of soil from the land except as shall be necessary for the construction of the dwelling and ancillary buildings;
- 5.6. the erection of any fence and/or wall on the land:
  - (a) on or within 5 metres of a road boundary if that wall is a timber retaining wall unless WFH Properties Limited or its appointed agent has, in its sole discretion, approved the erection of a timber retaining wall within 5 metres of a road boundary
  - (b) on any boundary which bounds on a Reserve unless that fence is a black pool fence style MF1013 with fence detail by Auckland Fencing and Auto Gates, such detail as at the date of the registration of this Easement or such other fence which WFH Properties Limited or its appointed agent, in its sole discretion, shall approve ("Approved Fence");
  - (c) in areas AK to AP and EL to EU unless that fence is an Approved Fence;
  - (d)
    - (i) On or within 3 metres of a road boundary, unless that fence is an Approved Fence of no more than 1 metre high on a side boundary or is a retaining wall that is not made from timber;
    - (ii) On the balance of the land a fence which exceeds 1.8 metres measured from the original ground level of the land.
  - (e) with the exception of an Approved Fence, any fence or wall using second hand materials and/or using corrugated or metal products.
  - (f) any fence or wall visible from any road, jointly owned accessway lot or Reserve unless it complies with this Clause 5.6 in all respects.
- 5.7. any motorhome, bus, caravan, trailer or similar that is parked on anything other than a hardstand area;
- 5.8. any motorhome, bus, caravan, trailer, permanent structure (that is not the dwelling) or similar to be used for human occupation;
- 5.9. any sign larger than 900mm by 600mm where such sign is visible from any road or jointly owned accessway lot or Reserve unless WFH Properties Limited or its appointed agent, in its sole and unfettered discretion, shall permit a larger sign. Such permission must be in writing and must be obtained before a larger sign is erected;
- 5.10. any satellite dish over 1 metre in diameter that is visible from any road or jointly owned accessway lot or Reserve.
- 5.11. any damage or alteration of the finished slope or any slope stabilisation device used on or within the reinforced earth batter wall in areas AK to AP, EL to EU and GA to GP (including any works below the ground of the finished slope or at the

toe of the finished slope or below the ground generally). Should any damage be caused the Covenantor shall promptly at its own expense rectify such damage. Should WFH Properties Limited grant consent for any works within areas AK to AP, EL to EU and GA to GP, it shall at no time have any responsibility for the works and or any outcome of the works whether foreseen or unforeseen or requirement to provide either uphill or downhill support, that being the sole responsibility of the Covenantor. The Covenantor shall at all times adhere to any additional building restriction requirements set out in the Geotechnical Completion Report by Tonkin & Taylor as specified within the corresponding consent notice.

5.12. any damage or alteration of the mass block wall or any wall stabilisation device used on or within areas AK to AP (including any works below the ground). Should any damage be caused the Covenantor shall promptly at its own expense rectify such damage. Should WFH Properties Limited grant consent for any works within areas AK to AP, it shall at no time have any responsibility for the works and or any outcome of the works whether foreseen or unforeseen or requirement to provide either uphill or downhill support, that being the sole responsibility of the Covenantor. The Covenantor shall at all times adhere to any additional building restriction requirements set out in the Geotechnical Completion Report by Tonkin & Taylor as specified within the corresponding consent notice.

6. The Covenantor shall:

6.1. only use any buildings on the land as a residence or other permitted activity authorised under the Auckland Council District Plan after buildings have been substantially completed in accordance with the terms of this covenant and the requirements of the local authority;

6.2. complete the landscaping of the land in accordance with plans pre-approved by WFH Properties Limited or its appointed agent prior to using any buildings on the land as a residence or other permitted activity by providing lawns and/or paving, trees, shrubs and flowers;

6.3. ensure that upon completion of any building on the land and prior to use of any building as a residence or other permitted activity:

(a) any concrete on the footpath, kerb or driveway is reinstated to the following specifications (all per cubic metre);

13mm C/Agg Hunua W/Agg	940kg
Pap7 Hunua W/Agg	588kg
Helensville sand – Winstones	375kg
General purpose G/Bay cement	245kg
Water	167 litres
Micro Air 940-MBT	100ml
Pozzolith 370-MBT	0.74litres
Air Content	5.0%
Density	2297kg/m <sup>3</sup>
Yield	1.008
W/C Ratio	0.68

(b) ensure that any kerb entrance crossing shall be reinstated to the original saw cuts and kerb detail as per Auckland Council specifications;

6.4. at all times comply with any plans, conditions, consents or similar imposed on it by any local or regional authority.

7. WFH Properties Limited or its appointed agent reserves the right at any time to waive or vary any of these covenants and if called upon to do so the Covenantor will sign any documentation required to give effect to this waiver and/or variation.
8. The Covenantor shall not oppose, frustrate, object to, nor take any action or encourage others to oppose, frustrate, object or take any action that might, in any way, prevent or hinder WFH Properties Limited and/or the Local Authority from progressing or completing the Millwater subdivision. This covenant extends to and includes (but is not limited to) development planning, zone changes, resource consents, Consent Authority or Environment Court Applications, Building Consent matters, any other consents, earthworks, developments and general works. The benefit of this covenant applies to any adjoining or neighbouring properties now or hereafter owned by WFH Properties Limited.
9. WFH Properties Limited shall not be liable to pay for or contribute towards the expense of construction or maintenance of any fence between the land and any contiguous land of WFH Properties Limited but this provision shall not enure for the benefit of any subsequent purchaser or proprietor of the contiguous land.
10. If there be any breach or non-observance of any of these covenants:
  - (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
  - (b) if there is more than one Covenantor for any Burdened Land the liability of the Covenantors for the Burdened Land shall be joint and several.
  - (c) the Covenantor in breach shall rectify any breach.
11. In the event of any dispute which cannot be resolved by agreement between the Covenantor and the Covenantatee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
12. The covenants in this instrument will cease to apply to any land that is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

#### **SCHEDULE "2C"**

<b>Lot No.</b>	<b>Record of Title</b>	<b>Lot No</b>	<b>Record of Title</b>
48	895475	49	895474
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WFH PROPERTIES LIMITED

## Covenantee

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## 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 covenants(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 attached Annexure Schedule	See attached Annexure Schedule	In gross

## Covenant rights and powers (including terms, covenants and conditions)

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[Annexure Schedule 2 ]

## **ANNEXURE SCHEDULE 2**

The Covenantee when registered owner of the land formerly contained in Record of Title 850584 subdivided the land into lots in the manner shown and defined on Deposited Plan 534851 (hereinafter referred to as the "the Plan").

**WHEREAS** it is the Covenantee's intention to create a high quality subdivision. To enable this to occur it is the Covenantor's intention to create for the benefit of the Covenantee the land covenant set out in Schedule 2B over the land set out in Schedule 2A (hereinafter referred to as the "Burdened Land")

**AND** so as to bind the Burdened Land and for the benefit of the Coveantee, the Covenantor **DOTH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule 2B hereto so that the covenant runs with the Burdened Land set out in Schedule 2A for the benefit of the Covenantee.

### **SCHEDULE "2A"**

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### **SCHEDULE "2B"**

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- (ii) that has the same plan, building shape and materials as any other dwelling within 250 metres of the land.
  - (iii) unless the final plans, specifications and finish have been approved by WFH Properties Limited or its appointed agent provided approval to such plans and specifications shall be deemed to have been given in respect of any building which has been erected and occupied for a period of five (5) years or more without the Covenantee objecting to same.
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  - 1.3. any dwelling or other building which does not satisfy the construction and material requirements set out in Clause 2;
  - 1.4. on any lot being 450m<sup>2</sup> or greater, any building or structure within 3 metres of any boundary adjoining a road except for a side fence or a retaining wall permitted pursuant to clauses 5.6(a) or 5.6(d)(i);
  - 1.5. any building that does not comply with the District Plan side yard set back rules unless a resource consent permitting the non-compliance with the District Plan side yard set back rules as been granted by Auckland Council. In this regard and notwithstanding the rules in the Auckland Unitary Plan, the Covenantor is permitted to follow the blanket consent for Lots 48-53 (inclusive), 164-165, 212, 216 and 230 to infringe the front yard setback to allow a minimum of 3m setback from the front boundary (with the exception where a garage faces the street, then the front wall (containing the garage door) of the garage shall be set back a minimum of 6m from the front boundary) as authorised by Land Use Consent [TBA].
2. Unless WFH Properties Limited or its appointed agent in its full and unfettered written discretion permits a variation or waiver of this Clause 2, the Covenantor shall not erect or place on the land any building, dwelling, carport, garage or other structure:
    - 2.1. unless all roofs are sheathed in either pre-coated metal tiles, chip-coated metal tiles, concrete tiles, clay tiles, asphalt shingles or glass fibre shingles, or Colorsteel® long run roofing products, provided that if concrete tiles are used they may not be red or orange in colour;
    - 2.2. unless exterior walls are sheathed in brick or textured plaster or stone or glass or timber weatherboards or Linea Board or any combination of those materials;
    - 2.3. having fibrous cement products used for exterior finish other than for soffit lining or backing for textured plaster finish.
  3. The Covenantor shall not erect on the land any temporary building or structure whether purpose built or previously erected on other land except as may be necessary during the construction of the permanent buildings provided that all temporary buildings or structures will be removed from the land upon completion of the permanent buildings.
  4. The Covenantor shall not subdivide the land. Subdivide shall have the meaning "subdivide land" set out in Section 218 of the Resource Management Act 1991.
  5. The Covenantor shall not permit or suffer on the land;
    - 5.1. unpainted sheds or unpainted garages;

- 5.2. any garden shed that is visible from any road, jointly owned accessway lot or Reserve;
- 5.3. any buildings in the course of construction to be left without substantial work being carried out on them for a period of two or more months;
- 5.4. any rubbish including garden or household waste to accumulate or be placed upon the land or permit any excessive growth of grass so that it exceeds 100 mm in height or otherwise becomes unsightly;
- 5.5. any removal of soil from the land except as shall be necessary for the construction of the dwelling and ancillary buildings;
- 5.6. the erection of any fence and/or wall on the land:
  - (a) on or within 5 metres of a road boundary if that wall is a timber retaining wall unless WFH Properties Limited or its appointed agent has, in its sole discretion, approved the erection of a timber retaining wall within 5 metres of a road boundary
  - (b) on any boundary which bounds on a Reserve unless that fence is a black pool fence style MF1013 with fence detail by Auckland Fencing and Auto Gates, such detail as at the date of the registration of this Easement or such other fence which WFH Properties Limited or its appointed agent, in its sole discretion, shall approve ("Approved Fence");
  - (c) in areas AK to AP and EL to EU unless that fence is an Approved Fence;
  - (d)
    - (i) On or within 3 metres of a road boundary, unless that fence is an Approved Fence of no more than 1 metre high on a side boundary or is a retaining wall that is not made from timber;
    - (ii) On the balance of the land a fence which exceeds 1.8 metres measured from the original ground level of the land.
  - (e) with the exception of an Approved Fence, any fence or wall using second hand materials and/or using corrugated or metal products.
  - (f) any fence or wall visible from any road, jointly owned accessway lot or Reserve unless it complies with this Clause 5.6 in all respects.
- 5.7. any motorhome, bus, caravan, trailer or similar that is parked on anything other than a hardstand area;
- 5.8. any motorhome, bus, caravan, trailer, permanent structure (that is not the dwelling) or similar to be used for human occupation;
- 5.9. any sign larger than 900mm by 600mm where such sign is visible from any road or jointly owned accessway lot or Reserve unless WFH Properties Limited or its appointed agent, in its sole and unfettered discretion, shall permit a larger sign. Such permission must be in writing and must be obtained before a larger sign is erected;
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GP (including any works below the ground of the finished slope or at the toe of the finished slope or below the ground generally). Should any damage be caused the Covenantor shall promptly at its own expense rectify such damage. Should WFH Properties Limited grant consent for any works within areas AK to AP, EL to EU and GA to GP, it shall at no time have any responsibility for the works and or any outcome of the works whether foreseen or unforeseen or requirement to provide either uphill or downhill support, that being the sole responsibility of the Covenantor. The Covenantor shall at all times adhere to any additional building restriction requirements set out in the Geotechnical Completion Report by Tonkin & Taylor as specified within the corresponding consent notice.

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6. The Covenantor shall:

6.1. only use any buildings on the land as a residence or other permitted activity authorised under the Auckland Council District Plan after buildings have been substantially completed in accordance with the terms of this covenant and the requirements of the local authority;

6.2. complete the landscaping of the land in accordance with plans pre-approved by WFH Properties Limited or its appointed agent prior to using any buildings on the land as a residence or other permitted activity by providing lawns and/or paving, trees, shrubs and flowers;

6.3. ensure that upon completion of any building on the land and prior to use of any building as a residence or other permitted activity:

(a) any concrete on the footpath, kerb or driveway is reinstated to the following specifications (all per cubic metre);

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9. WFH Properties Limited shall not be liable to pay for or contribute towards the expense of construction or maintenance of any fence between the land and any contiguous land of WFH Properties Limited but this provision shall not enure for the benefit of any subsequent purchaser or proprietor of the contiguous land.
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- (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
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11. In the event of any dispute which cannot be resolved by agreement between the Covenantor and the Covenantee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
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## ANNEXURE SCHEDULE 2

The Covenantee when registered owner of the land formerly contained in Record of Title 850584 subdivided the land into lots in the manner shown and defined on Deposited Plan 534851 (hereinafter referred to as the “the Plan”).

**WHEREAS** it is the Covenantee’s intention to create a high quality subdivision. To enable this to occur it is the Covenantor’s intention to create for the benefit of the land set out in Schedule 2C (hereinafter referred to as the “Benefited Land”) the land covenant set out in Schedule 2B over the land set out in Schedule 2A (hereinafter referred to as the “Burdened Land”)

**AND** so as to bind the Burdened Land and for the benefit of the respective Benefited Land the Covenantor **DOETH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule 2B hereto so that the covenant runs with the Burdened Land set out in Schedule 2A for the benefit of each of the respective registered owners of the Benefited Land as described in Schedule 2C.

### SCHEDULE “2A”

<b>Lot No.</b>	<b>Record of Title</b>	<b>Lot No</b>	<b>Record of Title</b>
48	895475	49	895474
50	895473	51	895519
52	895518	53	895520
164	895508	165	895509
166	895510	167	895511
168	895512	169	895513
170	895514	171	895515
172	895516	173	895517

### SCHEDULE “2B”

1. As part of the earthworks for the subdivision which lead to the creation of the Burdened Land, WFH Properties Limited formed a vegetated earth batter which is locked into the ground by way of a Deadman in areas GA to GP. It is crucial that the Deadman remains undisturbed at all times.
2. In accordance with clause 1, the Covenantor shall not permit or suffer in areas GA to GP:
  - 2.1. any disturbance of the land;
  - 2.2. any plantings (except for grass);
  - 2.3. the construction/erection of any buildings or structures;
  - 2.4. the storage of any items which may in any way affect the integrity of the slope stabilisation device; or
  - 2.5. any damage or alteration of the Deadman. Should any damage be caused, the Covenantor shall immediately, at its own expense, rectify such damage and have the repairs signed off by a registered engineer.
3. WFH Properties Limited or its appointed agent reserves the right at any time to waive or vary any of these covenants and if called upon to do so the Covenantor will sign any documentation required to give effect to this waiver and/or variation.
4. If there be any breach or non-observance of any of these covenants:

- (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
  - (b) if there is more than one Covenantor for any Burdened Land the liability of the Covenantors for the Burdened Land shall be joint and several.
  - (c) the Covenantor in breach shall rectify any breach.
5. In the event of any dispute which cannot be resolved by agreement between the Covenantor and the Covenantee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
6. The covenants in this instrument will cease to apply to any land that is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

**SCHEDULE "2C"**

<b>Lot No.</b>	<b>Record of Title</b>	<b>Lot No</b>	<b>Record of Title</b>
48	895475	49	895474
50	895473	51	895519
52	895518	53	895520
164	895508	165	895509
166	895510	167	895511
168	895512	169	895513
170	895514	171	895515
172	895516	173	895517

# COVENANT INSTRUMENT TO NOTE LAND COVENANT

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

Approval  
2018/6263  
Registrar-General of Land

## Covenantor

WFH PROPERTIES LIMITED

## Covenantee

WFH PROPERTIES 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 covenants(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 attached Annexure Schedule	See attached Annexure Schedule	In gross

## Covenant rights and powers (including terms, covenants and conditions)

Delete phrases in [ ] and insert Memorandum number as require; 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 2 ]

## ANNEXURE SCHEDULE 2

The Covenantee when registered owner of the land formerly contained in Record of Title 850584 subdivided the land into lots in the manner shown and defined on Deposited Plan 534851 (hereinafter referred to as the "the Plan").

**WHEREAS** it is the Covenantee's intention to create a high quality subdivision. To enable this to occur it is the Covenantor's intention to create for the benefit of the Covenantee the land covenant set out in Schedule 2B over the land set out in Schedule 2A (hereinafter referred to as the "Burdened Land")

**AND** so as to bind the Burdened Land and for the benefit of the Covenantee the Covenantor **DOETH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule 2B hereto so that the covenant runs with the Burdened Land set out in Schedule 2A for the benefit of the Covenantee.

### SCHEDULE "2A"

<b>Lot No.</b>	<b>Record of Title</b>	<b>Lot No</b>	<b>Record of Title</b>
48	895475	49	895474
50	895473	51	895519
52	895518	53	895520
164	895508	165	895509
166	895510	167	895511
168	895512	169	895513
170	895514	171	895515
172	895516	173	895517

### SCHEDULE "2B"

1. As part of the earthworks for the subdivision which lead to the creation of the Burdened Land, WFH Properties Limited formed a vegetated earth batter which is locked into the ground by way of a Deadman in areas GA to GP. It is crucial that the Deadman remains undisturbed at all times.
2. In accordance with clause 1, the Covenantor shall not permit or suffer in areas GA to GP:
  - 2.1. any disturbance of the land;
  - 2.2. any plantings (except for grass);
  - 2.3. the construction/erection of any buildings or structures;
  - 2.4. the storage of any items which may in any way affect the integrity of the slope stabilisation device; or
  - 2.5. any damage or alteration of the Deadman. Should any damage be caused, the Covenantor shall immediately, at its own expense, rectify such damage and have the repairs signed off by a registered engineer.
3. WFH Properties Limited or its appointed agent reserves the right at any time to waive or vary any of these covenants and if called upon to do so the Covenantor will sign any documentation required to give effect to this waiver and/or variation.
4. If there be any breach or non-observance of any of these covenants:

- (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
  - (b) if there is more than one Covenantor for any Burdened Land the liability of the Covenantors for the Burdened Land shall be joint and several.
  - (c) the Covenantor in breach shall rectify any breach.
5. In the event of any dispute which cannot be resolved by agreement between the Covenantor and the Covenantee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
6. The covenants in this instrument will cease to apply to any land that is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.