

**THE COVENANTS CREATED ARE AS FOLLOWS:**

**1. PURPOSE**

- (1.1) The purpose of these covenants is to protect the market and aesthetic value of the Dominant Lots, the privacy, peace and security of the occupants of the Dominant Lots, and the quality of the environment touching and concerning the Dominant Lots for the benefit of the Dominant Lots.
- (1.2) It is intended that this covenant shall be registered against Certificate of Title to the Dominant and Servient Lots, pursuant to Section 307 of the Property Law Act 2007.
- (1.3) For the purpose of this covenant:
- (i) The Land Covenants set out in Schedule B are created for the benefit of the land in Certificates of Title to inclusive (the "Dominant Lots") over the land in Certificates of Title to inclusive (the "Servient Lots") to the intent that the Servient Lots shall be bound by the provisions stipulations and restrictions set out in Schedule B of this Instrument and so that the owners and occupiers for the time being of the Dominant Lots including the Successors in title may enjoy the benefits of such covenants and enforce the observance of such provisions stipulations and restrictions as the covenants provide for their benefit and in relation to each owner of the Servient Lots including their successors in title from time to time. Such covenants are created so as to bind the Servient Lots for the benefit of the Dominant Lots in respect of the matters set out in Schedule B so that the covenants in Schedule B of this Schedule run with the Servient Lots for the benefit of the Dominant Lots
  - (ii) Where there shall at anytime be more than one (1) owner of the Servient Lot, this covenant shall be binding upon each and every owner jointly and severally.

**SCHEDULE B**

**2. DEFINITIONS**

In the following covenants:

- (a) Heading's are for ease of reference only and do not form part of any covenant nor affect the construction of any covenant.
- (b) Words imputing the singular include the plural and vice versa.

**“Access Road”** means Lot 100 on DP [     ].

**“Building”** comprises a building as defined by the Building Act 2004.

**“Dwellinghouse”** means and includes a residential dwelling house, or family residence.

**“Landscape Feature”** means any visible structural or landscape design or enhancement feature or utility to be provided on any Lot.

**“Lot”** means any Lot that is subject to these covenants.

**“Lot Owner”** means the owner of any Lot.

**“No Build Zone”** means that area shown yellow on the annexed Layout Plan.

### 3. COVENANTS

#### **Lot Development and Landscaping**

- (3.1) A Dwelling shall have a minimum floor height of 0.3 metres above finished ground level.

“height” is to be taken from original subdivision ground level of a Lot.

- (3.2) A Dwellinghouse must be constructed on the Lot in compliance with these Covenants, and all relevant regulatory requirements. Construction of the Dwellinghouse must be completed within eighteen (18) months of commencement of construction.
- (3.3) No Building shall exceed a height of 7 metres above finished ground level.
- (3.4) No Dwelling or Building shall cover more than 40% of the Lot.

(3.5) The applicable setbacks for any construction on Lots 1–6 (Township Zone) are:

- (a) Side boundaries 3 metres;
- (b) Access road boundary 3 metres
- (c) Sea side boundary 3 metres

The applicable setbacks for any construction on Lots 7–18 (rural Zone) are:

- (a) Side boundaries 3 metres;
- (b) Access road boundary 3 metres;
- (c) Sea side boundary up to No Build Zone.

(3.6) No Building on any Lot may be occupied as a residence in any way until:

- (a) The Code Compliance Certificate(s) has been issued by either the Westland District Council or an approved Building Certifier; and
- (b) The Building(s) have been completed in accordance with all the terms of these Covenants; and

(3.7) No discharge from a Lot of a soluble or insoluble nature that is detrimental to water quality shall be permitted to discharge into the waste water or storm water systems. The Lot owner is responsible for any remedial action undertaken for any breach thereof.

(3.8) No use may be made of adjacent land, footpaths or recreation areas abutting any Lot for access other than the access constructed for the Lot or for dumping of rubbish. Servient Lot Owners shall reinstate, replace and be responsible for all costs arising from damage to the landscaping, roads, footpaths, kerbing, berms, concrete or other structures arising directly or indirectly from any access or use by the Lot Owner (including their contractors).

(3.9) Any external air conditioning units must be properly noise proofed to ensure they are not a nuisance to neighbours.

(3.10) Trees, shrubs or other plants on any Lot shall not protrude beyond a graduated plane, drawn at 2.5 metres in height from the legal boundaries of the Lot, to the average height of the ridgeline of the dwelling constructed on the Lot. No trees,

shrubs or other plants on any Lot shall exceed a maximum height of seven (7) metres from the ground level being the original subdivision ground level prior to any construction or works being undertaken on the Lot.

- (3.11) No Lot Owner shall oppose, object to, frustrate, or take any action, or encourage or cause others to oppose, object to, frustrate or take any action that might in any way prevent or hinder MTP Limited or its successors, transferees or permitted assigns from progressing or completing the present Hapuka Landing development. Such covenant extends to and includes (without limitation) development planning, zone changes, resource consents for land uses and subdivisions, Consent Authority or Environment Court applications, Territorial Authority Building Consent matters, or any other necessary consent process for the Hapuka Landing development.
- (3.12) The owners of Lots 1–18 shall share equally in all repair, maintenance and general upkeep together with all costs associated with Lot 19 as shown on the annexed Layout Plan and Lot 100 being the access road

### **Fencing Provisions**

- (3.13) The Lot Owner shall be bound by a Fencing Covenant within the meaning of section 2 of the Fencing Act 1978 in that neither MTP Limited nor the Westland District Council shall be liable to pay for or contribute towards the cost of the construction or maintenance of any fence between any Lot and any adjoining land owned by MTP Limited or the Westland District Council.
- (3.14) No fencing shall be permitted or erected within the No Build Zone.

### **Enforcement**

- (3.15) MTP Limited may enforce these covenants in the same manner as a Lot Owner and in particular where a Lot Owner does not comply with any covenant MTP Limited may request such owner in writing to remedy such non compliance within a specified time (not to be less than fourteen (14) days from the date of such request). At the end of the specified time and where the Lot Owner remains in default in remedying such non-compliance MTP Limited may employ a suitably qualified

or experienced person to enter such Lot and carry out work necessary to achieve compliance with the covenant(s) involved and may recover as a debt due from the defaulting Lot Owner all costs incurred by MTP Limited in such remedial work.

- (3.16) MTP Limited will use its best endeavours to ensure observance of these covenants but shall not have any legal responsibility or liability for any lack of enforcement or enforceability or application of any of these Covenants. The Lot Owners agree to keep MTP Limited fully indemnified from any claim, liability, loss or action arising against it or its agents in respect of these covenants having regard to their intent to provide for the interests of Lot Owners inter se and their individual obligations of observance and rights of enforcement of the covenants.

#### **4. DISPUTE RESOLUTION**

- (4.1) Should any dispute arise concerning any aspects of these covenants that cannot be resolved by agreement between the parties involved the Lot Owners are bound to resolve the same by arbitration in accordance with the Arbitration Act 1996 (“the Act”), and the following provisions shall apply:
- (a) There shall be a single arbitrator who shall be appointed by the President for the time being of the Canterbury–Westland branch of the New Zealand Law Society (or any successor organization) as a sole arbitrator.
  - (b) The arbitrator shall determine all questions in issue between the parties including questions as to the scope of the dispute and as to procedure.
  - (c) The arbitrator’s award shall be binding on all parties to the dispute.
  - (d) Any party to a dispute may initiate arbitration in accordance with the provisions of the Act.