



Subdivision Covenants

For Te Tutu Street,
Whangamata 3620,
New Zealand

Contact:
Leigh Goodman
Ph +64 27 447 5243
Info@otahuheights.co.nz

1. The Grantor is registered proprietor of the servient tenement in Schedule A (the "Land").
2. The Grantor is subdividing the Land into lots, roads and access-ways (the "Lots"). The Grantor's subdivision of the Land is shown and defined on the plan deposited in the Land Registry Office at South Auckland under No. [insert].
3. It is the Grantor's intention that the servient tenements described in Schedule A (the "Covenanting Lots") shall be subject to a general scheme applicable to and for the benefit of the dominant tenements as described in Schedule A (the "Benefiting Lots") and that the owner or occupier for the time being of each of the Covenanting Lots should be bound by the stipulations and restrictions set out in this instrument and that the respective owners and occupiers for the time being of any of the Benefiting Lots may be able to enforce the observance of such stipulations and restrictions by the owners or occupiers for the time being of any of the other Covenanting Lots in equity or otherwise howsoever.
4. The Grantor covenants and agrees with the Grantee that the Grantor will at all times hereafter observe and perform all stipulations and restrictions contained in this instrument to the intent that each of the stipulations and restrictions shall enure for the benefit of each and every owner or occupier of the Benefiting Lots and every part of it provided always that the Grantor shall as regards the stipulations and restrictions described herein be liable only in respect of breaches which shall occur while the Grantor shall be the registered proprietor of the Land or any part of it in respect of which any such breach shall occur and in consideration therefore the Grantor hereby covenants that the Grantor will at all times hereafter save harmless and keep indemnified the Grantee from all proceedings costs claims and demands in respect of breaches by the Grantor of the covenants and restrictions hereinbefore on the Grantor's part contained and implied.
5. The Grantor for itself and its successors in title to the Land hereby covenants with the Grantee for itself and its successor in title for a period of twenty (20) years from the date title to the Covenanting Lots are issued:
 - a. Not to use the Covenanting Lots or permit or suffer them to be used for any purposes other than residential and will commence to build thereon within twenty-four (24) months from the date of purchase.
 - b. Not to permit or allow any rubbish to accumulate nor permit any excessive growth of vegetation so that the same becomes unsightly or a fire hazard.
 - c. Not to build or allow to be built or place on the Covenanting Lots a clothesline in sight of any access-way or road.
 - d. That no second-hand or relocated buildings shall be placed on the Covenanting Lots. In all cases the building erected upon the Covenanting Lots shall be built upon the Covenanting Lots provided always that prefabricated but previously unassembled new buildings shall for the purposes of this covenant be deemed to be built upon the Covenanting Lots.
 - e. That no single house dwelling shall be built on any of the Covenanting Lots with a floor area of less than 100m² excluding garages, terraces, decks or any roofed over areas.
 - f. That any one of the Covenanting Lots shall not be permitted to be occupied or used as a residence unless construction of the dwelling has been substantially completed and a code of compliance certificate has issued by the relevant local authority in respect of such dwelling.
 - g. That no building in the course of construction is to be left without substantial work being carried out on it for a period of exceeding three (3) months and any such building must be completed

within eighteen (18) months of commencement. Landscaping is to be completed within six (6) months after the building has been substantially completed and a code of compliance certificate has issued by the relevant local authority.

- h. That no temporary buildings or dwellings may be erected on the Covenanting Lots other than temporary workers sheds during the construction period provided that such sheds shall be removed upon practical completion of the dwelling and no caravans, buses or tents shall be located on the Covenanting Lots.
 - i. Not to erect or permit to be erected on the Covenanting Lots any garage or implement shed so sited that it might reasonably preclude the suitable siting of a dwelling house in accordance with these covenants and or preclude after construction of such dwelling house the use of such garage solely or primarily for vehicle storage.
 - j. Not to bring on to, raise, breed or keep any animals on the Covenanting Lots other than up to a maximum of two (2) domestic cats and or two (2) domestic dogs.
 - k. Not to allow those domestic cats and dogs to be kept on the Covenanting Lots that causes unreasonable nuisance or annoyance to other occupiers on the Benefiting Lots.
 - l. Not to, nor procure any other person to, object or submit to any Relevant Authority having jurisdiction in respect of any application by Kotuku Enterprises Limited, any associated party or its successor in title with respect to Lot 50 DP 390650 comprised in CFR 363860, Lot 51 DP 390650 comprised in CFR 363861 and Lot 1 DPS 778 comprised in CFR SA1070/210 for a resource consent or application for District Plan change relating to the proposed development, subdivision and or zoning of the land comprised in CFR 363860, CFR 363861 and CFR SA1070/210. This covenant shall apply to any associated part or its successors in title with respect to CFR 363860, CFR 363861 and CFR SA1070/210.
 - m. If there should be any breach or non-observance of any foregoing covenants and without prejudice to any other liability which the Grantor may have to any person having the benefit of these covenants the Grantor will upon written demand being made by the Grantee or any of the registered proprietors of the Covenanting Lots from time to time:
 - i. Pay to the person making such demand as liquidated damages a sum not exceeding \$120.00 (such sum to be adjusted in accordance with CPI adjustments from the date of these covenants to date of demand) per day for every day that such breach or non-observance continues after the date upon which written demand has been made.
 - ii. Remove or cause to be removed from the Covenanting Lots any dwelling-house, garage, building, fence or other structure erected or placed on the Covenanting Lots in breach or non-observance of the foregoing covenants; and
 - iii. Replace any building materials used in breach or non-observance of the foregoing covenants.
6. A reference to the "Grantor" or "Grantee" will include and bind the person executing this instrument as Grantor or Grantee, all the respective "Grantors" or "Grantees" for the time being under this instrument and, in the case of the "Grantor" includes where applicable all respective executors, administrators, successors, assigns and successors in title of each Grantor and if more than one jointly and severally.
7. Notwithstanding the covenants contained herein Kotuku Enterprises Limited shall be entitled, in it's sole discretion, to waive strict compliance with these covenants provided that the amendments are generally in accordance with the intention of the subdivision nor shall Kotuku Enterprises Limited

have any legal responsibility of liability for the enforcement, enforceability or lack of action with respect to the enforcement or applicability of these covenants by all or any of the Benefiting Lots.

8. The transferee shall be bound by a fencing covenant as defined in section 2 of the Fencing Act 1978 in favour of the Grantor as follows:
 - a. The Grantor shall not require any contribution from Kotuku Enterprises Limited towards the cost of fencing any common boundary between the Covenanting Lot and adjoining lot(s) owned by Kotuku Enterprises Limited.
 - b. This covenant does not enure for the benefit of any subsequent purchaser for value of those adjoining lot(s).