

View Instrument Details



Instrument No 10827159.2
Status Registered
Date & Time Lodged 03 July 2017 15:37
Lodged By Nooyen, Gemma Marie
Instrument Type Easement Instrument



Affected Computer Registers Land District

760683	South Auckland
760685	South Auckland

Annexure Schedule: Contains 13 Pages.

Grantor Certifications

I certify that I have the authority to act for the Grantor 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	☒
I certify that the Mortgagee under Mortgage 10392125.14 has consented to this transaction and I hold that consent	☒

Signature

Signed by Alistair Van Schalkwyk as Grantor Representative on 28/07/2017 03:37 PM

Grantee Certifications

I certify that I have the authority to act for the Grantee 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 Alistair Van Schalkwyk as Grantee Representative on 28/07/2017 03:37 PM

*** End of Report ***

Form B

**Easement instrument to grant easement or *profit à prendre*, or create
land covenant**

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

Jetco Waikato Limited

Grantee

Jetco Waikato Limited

Grant of Easement or *Profit à prendre* or Creation of Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A **grants to the Grantee** (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, or **creates** the covenant(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 (Nature and extent) of easement; <i>profit</i> or covenant	Shown on	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Land Covenants		Lots 20 and 22 DP 503062 (760683 and 760685)	Lots 20 and 22 DP 503062 (760683 and 760685)

Form B - continued

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Easements or profits à prendre rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby ~~[varied]~~ ~~[negatived]~~ ~~[added to]~~ or ~~[substituted]~~ by:

~~[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]~~

~~[the provisions set out in Annexure Schedule _____]~~

Covenant provisions

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 155A of the Land Transfer Act 1952]~~

~~[Annexure Schedule _____]~~

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LAND COVENANTS

1. Definition

"Benefiting lots" means any of the Dominant Tenement/s set out in Schedule A

"Boardinghouse" means a dwelling in which board or lodging is provided for reward or payment for three or more boarders or lodgers;

"Covenanting Lots" means any one of Servient Tenement/s set out in Schedule A

"Erect" means place, build, erect, install, attach, situate or construct or permit to be placed, built, erected, installed, attached, situated or constructed;

"Front Courtyard" means that part of the Covenanting Lots enclosed within a line running from side boundary to side boundary beginning at the front side corners of the residential dwelling Erected on that Covenanting Lots and extending forward of the residential dwelling to either:

- (a) the front boundary of the Covenanting Lots with the road where the Covenanting Lots directly adjoins the road; or
- (b) the front boundary of the Covenanting Lots with an Access Way if the Covenanting Lots takes its access from the road by an Access Way;

"Grantee" means the registered proprietor of the Benefiting Lots;

"Grantor" means the registered proprietor of the Covenanting Lots and includes the agents, employees, contractors, tenants, licensees and other invitees of the grantor;

"Improvements" means any residential dwelling and associated buildings or structures, fencing and landscaping to be Erected or incorporated on any of the Covenanting Lots;

"Relevant Authority" means any corporation, including any government, local or regional territorial authority, statutory or non-statutory authority or body having jurisdiction over the Covenanting Lots or the land or any part thereof; and

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"Development" means the Computer Freehold Register 729038 which is to be subdivided and developed into residential dwellings in stages by various plans to be deposited.

"Satellite Dish" means any satellite dish or other communication dish, device, antenna or aerial.

LAND COVENANTS TO ENSURE

- 2.** The **Grantor** for itself and its successors in title covenants and agrees with the Grantee for the benefit of each and all of the Benefiting Lots and also separately with each and all of the registered proprietors of the Benefiting Lots to always observe and perform all of the agreements, stipulations and restrictions set out in the Covenants to the intent that they shall forever ensure to benefit the Benefiting Lots.

GRANTOR'S COVENANTS

3. Prior Approval

- 3.1** Until such time as Jetco Waikato Limited ceases to be registered proprietor of any of the Covenanting Lots, the Grantor will not at any time erect or permit to erect on the lot or transport or deliver to the lot any dwelling house, carport, garage or other building or improvement without first obtaining the written approval of Jetco Waikato Limited or its nominee to the final building plans and specification (as intended to be submitted to the territorial authority for the building consent) including full details of the exterior colour schemes and finishes of the exterior claddings to be used in the buildings and fencing, driveways, front yard landscaping, and earthworks. The approval of Wai or its nominee in these matters shall not be unreasonably withheld and must be in writing before building consent is applied for.

4. Minimum Standard

- 4.1** Notwithstanding the approval required by clause 2.1 any building constructed on the Lot shall comply with the following minimum terms:
- (a) No building shall incorporate any external cladding or flat plywood sheeting (unless battened), flat fibre cement sheeting, "hard flex" or "villa board"; unless used in association with a textured finish and no hardiplank shall be used whether in association with a textured finish, or otherwise;

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(b) No single dwelling house shall be constructed with a gross floor area (including garages but excluding any minor dwellings) of less than 150 m²;

(c) No fencing shall be erected constructed of steel or plank steel, untextured flat fibrolite, hardiflex, plywood sheeting or other similar material.

5. Improvements to Comply

5.1

The Grantor shall not Erect any Improvements on a Covenanting Lots without first obtaining all consents and permits required under any relevant legislation for such Improvements from the Relevant Authority.

5.2

The Grantor shall comply and satisfy all terms and conditions in any such consents and permits.

6. Timely completion of Improvements

6.1

The Grantor shall ensure that construction of any Improvement (not including the original dwelling) is completed (including all exterior coatings) within 12 calendar months from the date on which construction commences.

7. Residential use

7.1

The Grantor must not use any part of the Covenanting Lots, or permit the same to be used, for any trading or commercial purpose, unless that purpose is a permitted activity under the relevant district plan and the Grantor complies in all respects with the requirements of the Relevant Authority.

7.2

The Grantor must not use any part of the Covenanting Lots or permit the same to be used, as a Boardinghouse.

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- 7.3 The Grantor must not Erect a granny flat on the Covenantee Lots unless such granny flat is
- (a) a one bedroom flat;
 - (b) Erected within the residential dwelling; and
 - (c) complies with the requirement of the Relevant Authority.
- 8. No Temporary or Ancillary Buildings**
- 8.1 Building sheds or such other buildings that are required during the course of the construction may be placed on the Lot but must be removed on completion of the construction. Except for such building sheds, the Grantor shall not at any time permit to be placed on the property any caravan, hut, garage, shed or transportable home of any kind for temporary residential use;
- 8.2 The Grantor may Erect a garden shed on the Covenantee Lots, provided that such garden shed:
- (a) must not be Erected in the Front Courtyard of the Covenantee Lots;
 - (b) must not be visible from the adjacent roadside or Access Way;
 - (c) must be constructed of new permanent materials, appropriately painted, or be a new proprietary brand, precoated with a factory colour finish that will not detract from the visual amenity of the Development; and
 - (d) must not be more than one storey in height or exceed 10m² in floor area, and constitutes exempt building work in terms of Schedule 1 of the Building Act 2004;
- 8.3 The Grantor may park a caravan or mobile home on the Covenantee Lots provided that any such caravan or mobile home parked on the Covenantee Lots is not in public view for more than 15 consecutive days; and
- 8.4 The Grantor may store a caravan or mobile home on the Covenantee Lots provided that any such caravan or mobile home stored on the Covenantee Lots is screened from public view behind the building setback line by fencing gates, or dense planting.
- 8.5 The Grantor must not Erect on the Covenantee Lots any freestanding carport, garage or other ancillary domestic building (including but not limited to conservatories and sunrooms) which is not incorporated into the residential dwelling.

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9. No occupation until completion

9.1

The Grantor shall not permit any dwelling house erected on the Lot to be occupied until substantially completed in accordance with the requirements of the Territorial Authority and until the exterior sheeting and finishing, including exterior painting, has been completed.

10. No Dilapidation

10.1

The Grantor shall not allow any buildings or structures on the Lot to become dilapidated or to fall into disrepair or allow any nuisance or disturbance to be caused to any owner or occupier of neighbouring lots.

11. No Nuisance

11.1

The Grantor shall not allow on any of the lots any activity which creates nuisance, disturbance or damage to any owner or occupier or neighbouring lots.

12. Maintenance

Buildings

12.1

The Grantor must keep and maintain the exterior appearance of any Improvement on a Covenanted Lots to a high standard of care and maintenance and in particular must:

- (a) keep and maintain the exterior of any Improvements situated on the Covenanted Lots in good and substantially tenantable repair and condition; and
- (b) regularly clean and paint the exterior of any improvements as and when required to ensure the continued high standards of visual amenity within the Development on the Land.

12.2

The Grantor must not paint or cause to be painted or otherwise coloured or stained the exterior of any residential dwelling or other building or structure on any Covenanted Lots with any colour which materially deviates from the original colour of the dwelling, provided that where the residential dwelling shares a common wall or walls with any dwelling, the Grantor will only be entitled to paint the exterior of the residential dwelling with the exact same colour with which that residential dwelling was originally painted.

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Landscaping

12.3

The Grantor must keep the Covenanted Lots and the Berm in a neat, tidy and well-maintained condition and free of weeds and rubbish and will not permit the growth of grass or other vegetation on the Lot to the stage where it becomes long or unsightly. The Grantor must not deposit, hold, store or leave on the Covenanted Lots any excavation material, soil, fallen trees, rubbish, garbage, builders' waste or other substances whatsoever.

12.4

Should the Grantee notify the Grantor that rubbish removal, slashing, maintaining or clearing of the Covenanted Lots or Berm is necessary to maintain the tidy presentation of the Development on the Land, the Grantor must carry out the works within 10 working days. If the Grantor fails to comply with the request to remove rubbish, slash, maintain or clear, the Grantee may employ a contractor to carry out the rubbish removal, slashing, maintaining or clearing and the Grantor must pay the Grantee for the cost incurred.

Fencing

12.5

Where any fence or boundary wall has been defaced, damaged, destroyed or removed, the Grantor must, within 15 working days, arrange for such fence or boundary wall to be repaired, restored or replaced (as the case may be) using the same or equivalent materials as the original fence or boundary wall so that the repaired, restored or replaced fencing or boundary wall is substantially the same in appearance, location and dimensions as the original fencing or boundary wall.

Improvements

12.6

Except as otherwise provided in these Covenants, the Grantor must not Erect any Improvement (other than landscaping) in the Front Courtyard of the Covenanted Lots.

12.7

Notwithstanding the terms or provisions of the Fencing Act 1978, the Grantor must not Erect any fence or fences on the Covenanted Lots nor permit any hedge or trees to be planted or grown as a living fence of any kind unless such fences comply in full with the following criteria:

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- (a) no fence will be Erected in corrugated iron, steel cladding or second-hand or demolition materials;
- (b) no side boundary fence or rear boundary fence will be Erected that is greater than 1.8 metres in height measured vertically from the natural ground level at the relevant point on the Covenanted Lots where the fence is Erected;
- (c) no fence will be Erected on either the front boundary of the Covenanted Lots with the road or on any part of the Covenanted Lots that is in the Front Courtyard;
- (d) no side boundary fence will project further forward to the road frontage of the Covenanted Lots than the front of the residential dwelling Erected on the Covenanted Lots to the intent that the Grantor desires that the Front Courtyards of the Covenanted Lots will be maintained as an open and unfenced park-like environment. For the purposes of certainty, and the avoidance of doubt, where fencing of side boundaries is concerned between two adjoining Covenanted Lots, the side boundary fences may project to the front of that residential dwelling that is nearest to the road frontage of the Covenanted Lots; and
- (e) as a general exception to the provisions of subclauses 11.7(d) and 11.7(d) relating to fencing, any Covenanted Lots that is a corner lot and any Covenanted Lots specifically requiring living courts or private fencing in their Front Courtyard will be exempt from the restrictions so that those Covenanted Lots may have screen fencing for living court requirements or privacy requirements. That screen fencing will be provided by the Grantor as part of the Development of the Covenanted Lots and will not be materially altered or extended by any subsequent registered proprietor any further from that provided by the Grantor on the Covenanted Lots as part of the Development of the residential dwelling on the Covenanted Lots.

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13. Washing Lines	
13.1	The Grantor must ensure that any washing line Erected on the Covenanting Lots is not visible from any adjacent road or any Access Way.
14. Satellite dishes and solar panels	
14.1	The Grantor must not Erect a Satellite Dish in the Front Courtyard of the Covenanting Lots. The Grantor must ensure that any Satellite Dish Erected on the Covenanting Lots, not mounted on the roof of the principal dwelling, is not visible from any adjacent road.
15. Immobile vehicles and rubbish	
15.1	The Grantor will not: (a) bring onto or allow to remain on the Covenanting Lots or the Development any vehicle or rubbish (inorganic or organic) which is unsightly or which is likely to become a nuisance to the registered proprietors of the Benefiting Lots; nor (b) allow to remain on the Covenanting Lots or the Development for more than 7 days any equipment or machinery which is unsightly or which is likely to become a nuisance to the registered proprietors of the Benefiting Lots; nor (c) place or leave any immobile or broken down vehicle on any road, road reserve or Access Way in the Development.
16. Car Parking	
16.1	The Grantor must not park or permit guests, residents, invitees or contractors to park any vehicle on any road reserve, Access Way, or Front Courtyard within the Development apart from on a properly constructed driveway or parking bay.
17. Signage	
17.1	Subject to clause 17.3 the Grantor must not erect on the Covenanting Lots: (a) any signage which exceeds 1.2m² in area; (b) more than one "builder's" sign at any one time; and (c) more than one "For Sale" sign at any one time.

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17.2 The Grantor must ensure that any signage Erected on the Covenanting Lots:

- (a) will be of high-quality sign writing; and
- (b) must not be handwritten.

17.3 Nothing in clause 17.1 will prevent the Grantor from Erecting any sign complies with clause 17.2 which is required by the Occupational Health and Safety Service.

18. Animals

18.1

The Grant must not bring onto, raise, breed or keep any animal, livestock or poultry on the Covenanting Lots without the prior approval of the Relevant Authority, other than a domestic cat or dog or other common domestic animal, registered with the Relevant Authority (if required).

19. Breach of Covenants

19.1 If the Grantee considers that there is any breach or non-observance by the Grantor of any one or more of the Covenants, the Grantee will give written notice of such breach to the Grantor. Without prejudice to any other liability which the Grantor may have to the Grantee and any persons having the benefit of the Covenants, the Grantor will upon written demand being made by the Grantee:

- (a) within 21 working days (or such shorter period as is provided by the Council or such other relevant regulatory authority) of receipt of notice in writing from the Grantee remedy the breach; and
- (b) if the breach persists after 21 working days (or such shorter period as is provided by the Council or such other relevant regulatory authority) of receipt of notice in writing from the Grantee, pay to the Grantee as liquidated damages the sum of \$100 for each day that the breach continues.

ANNEXURE SCHEDULE - CONSENT FORM¹

Land Transfer Act 1952 section 238(2)

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Killarney Capital Limited	Mortgagee under mortgage number 10392125.14
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Consent

Delete words in [] if the inconsistent with the consent
 State full details of the matter for which consent is required

[Without prejudice to the rights and powers existing under the interest of the person giving consent,
 the **Person giving consent hereby consents to:** the creation of any land covenants to be registered in
 respect of CT 760684 but without prejudice to the rights and powers under the mortgage.

Dated this 27 day of July 2017

Attestation

<u>R.D.Hooper</u> Director Signature of Person giving consent	Signed in my presence by Signature of Witness <u>Pete Cooke</u> Witness to complete in BLOCK letters (unless legibly printed): Witness name Pete Cooke. Occupation Client Manager Address 47 Simla Avenue Havelock North
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¹ An Annexure Schedule in this form may be attached to relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, which no form is prescribed.

ANNEXURE SCHEDULE - CONSENT FORM¹

Land Transfer Act 1952 section 238(2)

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Killarney Capital Limited	Mortgagee under mortgage number 10392125.14
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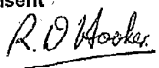
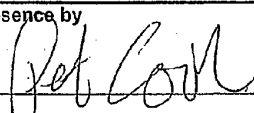
Consent

Delete words in [] if the inconsistent with the consent
State full details of the matter for which consent is required

[Without prejudice to the rights and powers existing under the interest of the person giving consent.]
the Person giving consent hereby consents to: the creation of any land covenants to be registered in respect of CT 760685 but without prejudice to the rights and powers under the mortgage.

Dated this 21st day of July, 2017

Attestation

Signature of Person giving consent 	Signed in my presence by  Signature of Witness
	Witness to complete in BLOCK letters (unless legibly printed): Witness name: Peter Cooke Occupation: Client Manager Address: 47 Simla Avenue Havelock North

¹ An Annexure Schedule in this form may be attached to relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, which no form is prescribed.