

View Instrument Details



Instrument No 10449616.5
Status Registered
Date & Time Lodged 03 June 2016 09:47
Lodged By Thomas, Andrew Edward Gareth
Instrument Type Easement Instrument



Affected Computer Registers Land District

715245	Wellington
715246	Wellington
715247	Wellington
715248	Wellington
715249	Wellington
715250	Wellington
715251	Wellington
715252	Wellington
715253	Wellington
715254	Wellington
715255	Wellington
715256	Wellington
715257	Wellington
715258	Wellington
715259	Wellington
715260	Wellington
715261	Wellington
715262	Wellington
715263	Wellington
715264	Wellington
715265	Wellington
715266	Wellington
715267	Wellington
715268	Wellington
715269	Wellington
715270	Wellington
715271	Wellington
715272	Wellington
715273	Wellington
715274	Wellington
715275	Wellington
715276	Wellington
715277	Wellington
715278	Wellington
715279	Wellington
715280	Wellington
715281	Wellington
715282	Wellington
715283	Wellington
715284	Wellington
715285	Wellington

Affected Computer Registers Land District

715286

Wellington

Annexure Schedule: Contains 6 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 10214688.4 has consented to this transaction and I hold that consent

I certify that the Encumbrancee under Encumbrance 9099897.8 has consented to this transaction and I hold that consent

Signature

Signed by Suzanne June Learmonth as Grantor Representative on 04/05/2016 03:29 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 Suzanne June Learmonth as Grantee Representative on 04/05/2016 03:29 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

V J Limited

Grantee

V J 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 (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Land Covenant		CFR 715245 - 715286 (inclusive)	CFR 715245- 715286 (inclusive)

Form B - continued

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

The provisions applying to the specified covenants are those set out in:
The 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:
The Annexure Schedule

Form L**Annexure Schedule**

Page of Pages

*Insert instrument type***Easement Instrument****BACKGROUND**

The Grantor is proposing to subdivide the Land and sell the Lots.

Subject to the provisions of this Instrument, it is the Grantor's intention but without imposing any obligation to do so, that:

- (a) The Lots shall be subject to a general scheme applicable to each of the Lots to the intent that a modern high quality and well-designed residential subdivision shall be enjoyed by the registered proprietors of the Dominant Tenements;
- (b) That the principles of the Waikanae North Design Guidelines as contained in the Kapiti District Plan shall be adopted by all Grantors;
- (c) The owner or occupier for the time being of each of the Lots shall be bound by the covenants set out in this Instrument, and that the Grantee for the time being may be able to enforce the observance of such covenants by the owners or occupiers for the time being of any Lots in equity or otherwise, and
- (d) The Grantor shall transfer each of the Lots subject to like covenants.

The Grantor wishes to utilise the provisions of sections 56 and 278 of the Property Law Act 2007 to create the general scheme as it relates to the Servient Tenement, and to this end will by this Instrument grant these covenants to itself.

GENERAL COVENANTS

The Grantee will not be required or obliged to enforce all or any of the covenants, stipulations and restrictions contained in this Instrument, nor be liable to the Grantor for any breach thereof by any of the registered proprietors from time to time of the Servient Tenement.

The Grantor shall not call upon the Grantee to pay for or contribute towards the costs of erection or maintenance of any boundary fence between a Servient Tenement and contiguous land owned by the Grantee but this covenant shall not enure for the benefit of any subsequent registered proprietor of such adjoining land.

The Grantor covenants that the Grantor will at all times save harmless and keep indemnified the Grantee from all proceedings, costs, claims and demands in respect of breaches by the Grantor of any of the stipulations, restrictions and covenants that this Instrument assigns to the Grantor.

The Grantor may at any time and from time to time exclude any Lot from being subject to or having the benefit of the covenants under this Instrument. These Lots may include roads or reserves that are to vest in the Relevant Authority.

SPECIFIC COVENANT

The Grantor for itself so as to bind a Servient Tenement, covenants and agrees with the Grantee for the benefit of the Dominant Tenement, and the registered proprietor of the Dominant Tenement from time to time that the Grantor shall always observe and perform, and will do, or as the case may require, omit to do, all things necessary to ensure that each registered proprietor from time to time of a Servient Tenement shall always observe and perform, the covenants set out in this Instrument to the end and intent that these covenants shall enure for the benefit of the Dominant Tenement.

RESTRICTIVE COVENANTS

1. The Grantor will not in respect of a Servient Tenement:
 - 1.1. Construct any accessory building, carport, decking, breezeway or roof overhang, if constructed, without the same being, architecturally integrated with the design of the dwelling. Further, and in order to enhance the quality and appearance of buildings in the Subdivision, any attachments to the buildings on a Servient Tenement (including, but not necessarily limited to, air conditioning units, television aerials and solar hot water panels) will not be constructed unless they are constructed in such a way as to be discreetly integrated with the design of such buildings so that they are not highly visible from any road, thoroughfare or adjacent property.
 - 1.2. Allow the placement of relocatable houses or construct any building with second hand or used exterior cladding and will not allow any building to be constructed without at least 60% of the exterior cladding comprising the following materials:
 - 1.2.1. Kiln fired or concrete brick;
 - 1.2.2. Solid plaster or textured plaster finish;
 - 1.2.3. Stone or timber;
 - 1.2.4. Linear Board or any similar type Branz approved weatherboard system; or
 - 1.2.5. Any other exterior cladding material for which the Grantor has first obtained the Grantee's written consent.
 - 1.3. Construct any fence, or boundary rails which exceed 1.8 metres above natural ground level.
 - 1.4. Erect or permit to be erected on the Land any fence on the side boundary higher than 1 metre within five metres of the Principal Road boundary. Servient Tenements shall be exempt from this provision where the principal frontage is a private lane.
 - 1.5. In respect of a fence or boundary wall, use materials of wire or wire netting, corrugated iron, plywood sheeting or any untextured flat fibre cement sheeting or any untextured product including but not limited to fibrolite, Hardiflex or Hardiplank or any other similar product.
 - 1.6. Construct a vehicle crossing to the Servient Tenement other than in accordance with the approved crossing design provided by the Grantor.
 - 1.7. Commence construction of any building on a Servient Tenement unless it is completed within twelve months of laying down the foundations for such building and no building once under construction will be left without substantial work being carried out for a period exceeding three months.
 - 1.8. Erect on a Servient Tenement any building other than a new residential home and ancillary buildings associated with a residential dwelling
 - 1.9. Erect any temporary building or structure on the Servient Tenement except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Servient Tenement upon completion of the work.
 - 1.10. Permit a Servient Tenement to be in a condition other than in a neat and tidy condition and shall not permit excessive growth of grass so that it becomes longer than 150mm above natural ground level. The Grantor will not plant or allow to be planted or establish or grow on a Servient Tenement, any shrubs or trees to a height greater than 5 metres above natural ground level. The Grantor will not grow or allow any noxious plants as defined under the Biosecurity Act 1993 to grow on a Servient Tenement.
 - 1.11. Prevent the Grantee, its officers, employees or agents from entering onto a Servient Tenement at all reasonable times for the purposes of ensuring compliance with these covenants and remedying any breaches subject to:

- 1.11.1. The Grantee first giving written notice of its intention to enter on to a Servient Tenement being not less than 24 hours;
- 1.11.2. Entry will be for the purpose of ensuring compliance with the covenants contained in this Instrument or remedying any breach of the covenants;
- 1.11.3. In the event of the Grantee so entering a Servient Tenement, the Grantee shall not be responsible for any damage occasioned to a Servient Tenement or anything placed on it, as a result of a reasonable exercise by the Grantee of its powers.
- 1.12. Allow to be erected or permit to be erected more than one Satellite Dish on the property. And the dish must not exceed 750mm in diameter. A Satellite Dish which exceeds 750mm in diameter may be erected on the property providing the Satellite dish is not visible where practical from the road adjacent to the frontage of the property.
- 1.13. Permit an application for a Code Compliance Certificate be lodged unless the land between the Principal Road's boundary and the front of the dwelling has been landscaped, levelled and sown with grass seed or 'ready lawn' has been laid, and a concrete, asphalt or other approved (by the Grantee in writing) driveway has been laid.
- 1.14. Allow large commercial vehicles, motor homes, caravans or machinery equipment to be regularly located either on the street, street berm or footpath or on that area within 3 metres of the road boundary other than for delivery purposes.
- 1.15. Use the Servient Tenement or permit the same to be used other than for residential purposes and will not use the Servient Tenements or permit the same to be used for any trading, industrial or commercial purposes but it is acknowledged that the use of a residential dwelling for a home enterprise use if permitted by the District Plan of the Relevant Authority will not be a breach of this covenant.

BREACH OF COVENANT

2. If there should be any breach or non-observance by the Grantor of any of the covenants or restrictions contained in this Instrument, then without prejudice to any other liability which the Grantor may have to the Grantee or any person or persons having the benefit of the covenants and restrictions, the Grantor will upon written demand made by any Grantee or their nominee take all steps necessary to remedy the breach for non-observance of the covenants if the breach is capable of remedy.
3. The Grantor, without limiting any other rights at law or in equity available to the Grantee, acknowledges a breach of any of the covenants in this Instrument shall entitle the Grantee and their successors in title to immediate injunctive relief or to seek specific performance.
4. Any expenses and costs incurred in enforcing the covenants in this Instrument against the Grantor shall constitute a debt and any moneys due and payable by the Grantor shall be enforceable against the Grantor as if it were a debt.
5. Notwithstanding any rule of law or equity to the contrary:
 - 5.1 The covenants contained in this Instrument have been made by the parties for themselves and their respective successors in title and any persons deriving title under them and shall have effect as if those successors and other persons were expressed. Accordingly, the rights accruing to the Grantee shall be enforceable at the suit of the Grantee for so long as the Grantee shall remain a registered proprietor of the Servient Tenement, or any part of it, and upon transfer of such land to a third party, those rights shall be enforceable by their respective successors in title;
 - 5.2 The covenants contained in this Instrument shall be binding upon the Grantor and its successors in title;
 - 5.3 The parties and their successors and persons deriving title under them shall be deemed to include the lessee, licensee or occupiers for the time being of the Servient Tenement; and

5.4 Sections 23(2), 275 to 279 (inclusive) and 301 to 306 (inclusive) of the Property Law Act 2007 shall apply.

DEFINITIONS AND INTERPRETATION

Definitions

In this instrument:

- **“Lot or Lots”** means each and all of the lots comprised or to comprise the lots created by subdivision of the Land including the Servient Tenements but excluding any lot which vests as a reserve or road in the Relevant Authority or in the Grantee's discretion is not to form part of the general scheme.
- **“Land”** means an estate in fee simple being Lot 15 DP478686 and Lot 16 DP478686.
- **“Relevant Authority”** means Kapiti Coast District Council and any other authority having jurisdiction over the Land.
- **“Subdivision”** means the subdivision of the Land into predominantly residential sections.
- **“Principal Road”** means the frontage from which a dwelling on a Servient Tenement has its main pedestrian access from a public or private street, road, park or reserve.

Interpretation

In this instrument words and expressions denoting the singular shall include the plural.

The Grantor and Grantee includes the successors and assigns of the Grantor and Grantee.

A reference in this document to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.