

View Instrument Details



Instrument No 9574749.12
Status Registered
Date & Time Lodged 02 December 2013 11:48
Lodged By Spencer, Whytney Nicole Eulalie
Instrument Type Easement Instrument



Toitū Te Whenua
Land Information
New Zealand

Affected Computer Registers Land District

627704	Canterbury
627705	Canterbury
627706	Canterbury
627707	Canterbury
627708	Canterbury
627709	Canterbury
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627736	Canterbury
627737	Canterbury
627738	Canterbury

Annexure Schedule: Contains 2 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



Grantor Certifications

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 7641609.3 has consented to this transaction and I hold that consent ☒

Signature

Signed by Mary Elizabeth Johnston as Grantor Representative on 29/11/2013 05:27 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 Mary Elizabeth Johnston as Grantee Representative on 29/11/2013 05:27 PM

***** End of Report *****

Easement instrument to grant easement or *profit à prendre*, or create land covenant
Sections 90A and 90F, Land Transfer Act 1952

Grantor

HORNCastle HOMES LIMITED

Grantee

HORNCastle HOMES LIMITED

Grant of easement or *profit à prendre* or creation or 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) 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	Easement Land Shown (plan reference)	Servient tenement (Computer Register)	Dominant tenement (Computer Register) or in gross
Land Covenants as set out in attached annexure schedule	DP 468088	Lots 1, 2, 3 and 32 on DP 468088, CRs 627704, 627705, 627706 & 627733	Lots 1 to 16 DP 468088 CRs 627704 to 627719 (incl.), Lots 19 to 32 CRs 627720 to 627733 (incl.) and Lots 300 to 304 CRs 627734 to 627738 (incl.)

Easements or *profit 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 specific 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 [varied] ~~[negative]~~ [added to] or ~~[substituted]~~ by:

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

[the provisions set out in Annexure Schedule 2.]

Covenant provisions

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:

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

[Annexure Schedule 2]

*Insert instrument type***Land Covenants***Continue in additional Annexure Schedule, if required.***LAND COVENANTS (ENTRANCE FEATURES)**

1. These covenants shall:
 - (a) run with Lots 1, 2, 3 and 32 on Deposited Plan 468088 ("Servient Tenement"); and
 - (b) be for the benefit of and appurtenant to each of the Computer Freehold Registers for Lots 1 to 16 (inclusive) Lots 19 to 32 (inclusive) and Lots 300 to 304 (inclusive) on Deposited Plan 468088 ("Dominant Tenement"); and
 - (c) all expire on 1st January 2023 and be void for all purposes including prior breach.
2. Interpretation:
 - 2.1 For the purposes of these covenants:
 - (a) "Entrance Feature" means the entrance feature constructed by Horncastle Homes Limited on the Entrance Strip.
 - (b) "Entrance Strip" means the strips of land shown as A on Lot 32 Deposited Plan 468088, B on Lot 3 Deposited Plan 468088, C on Lot 2 Deposited Plan 468088 and D on Lot 1 Deposited Plan 468088.
 - (c) "land" means any lot having the burden and/or the benefit of these land covenants as described in clause 1 above.
 - (d) "Horncastle Homes" means Horncastle Homes Limited.
 - (e) "subdivision" means all of the lots on Deposited Plan 468088.
3. Entrance Feature:
 - 3.1 Without receiving the prior written approval of the Grantee, the Grantor shall not alter the design, exterior coating/finish, colour or structure of the Entrance Feature as constructed on the Entrance Strip.
 - 3.2 The Grantor shall also be responsible for the cleaning and maintenance of the particular Entrance Feature situated on the Grantor's land. The maintenance required shall be to a reasonable standard taking into account:
 - (a) "fair wear and tear".
 - (b) the original condition at either the time the title for the land issued or the date on which the code compliance certificate for the first dwelling erected on that property was issued by the local authority; WHICHEVER IS THE LATER; and
 - (c) the standard of buildings and structures within the subdivision.
 - 3.3 Any dispute as to whether a Grantor has complied with the requirements of clauses 3.1 and 3.2 shall be determined by Horncastle Homes or an architect nominated by Horncastle Homes.
4. Enforcement:
 - 4.1 If there is any breach or non observance of the foregoing covenants (and without prejudice to any other liability which the Grantor may have to any other person having the benefit of these covenants) the Grantor in breach agrees to and shall, at their cost:-
 - (a) forthwith upon receipt of a written notice being given by any Grantee (or its agent or any other party having the benefit of these covenants) to the party in breach, carry out such remedial work specified in the notice and any other work so as to remedy such breach or non performance of these covenants; and
 - (b) pay the reasonable legal costs (calculated on a solicitor and own client basis) of the Grantee in taking steps to enforce these covenants if the Grantee establishes that a breach of the covenants has occurred.

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Annexure Schedule: Contains 5 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 ☒

Grantor Certifications

I certify that the Mortgagee under Mortgage 7641609.3 has consented to this transaction and I hold that consent

**Signature**

Signed by Mary Elizabeth Johnston as Grantor Representative on 29/11/2013 05:25 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 Mary Elizabeth Johnston as Grantee Representative on 29/11/2013 05:25 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

HORNCastle HOMES LIMITED

Grantee

HORNCastle HOMES 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 Covenants as set out in attached annexure schedule	DP 468088	Lots 1 to 16 (inclusive) Lots 19 to 32 (inclusive) CRs 627704 to 627733 (inclusive)	Lots 1 to 16 (inclusive) Lots 19 to 32 (inclusive) CRs 627704 to 627733 (inclusive)

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~~ ~~negated~~ **added to** or ~~substituted~~ by:

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

[the provisions set out in Annexure Schedule 2]

Covenant provisions

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:

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

[Annexure Schedule 2]

Form L
Annexure Schedule

Page 2 of 5 pages

Insert instrument type

Land Covenant Instrument

Continue in additional Annexure Schedule, if required

"ANNEXURE SCHEDULE 2"

COVENANT PROVISIONS

The registered proprietors and their successors in title **SHALL NOT**:

1. Use or permit or suffer to be used in any residential building or garage on the Property, second-hand materials (other than second-hand bricks) or fibrelite for outer wall facings for any building on the Property, nor use or suffer or permit to be used any building material, other than brick, stone, concrete block, stucco, cement or plaster finish or similar type of finish, plastered textured finish, timber weatherboards or linearboards which have the appearance of timber weatherboards, zincalume, coloursteel, or glazing or a combination of these materials, for any outer wall facings, without first obtaining the written consent of Horncastle Homes Limited or its Nominee. Horncastle Homes Limited or its Nominee shall be entitled to consent to the use of any other or different building materials and finishes in its sole and absolute discretion.
2. Erect, place or cause to be erected or placed on the Property:
 - (a) Any caravan, hut, garage or shed for any kind of permanent or temporary residential use, provided that this clause shall not affect the right of the registered proprietor to have and keep a caravan on the Property; or
 - (b) Any dwelling-house or unit or garage other than a new dwelling-house, unit or garage. This will include any garage (including a stand-alone garage), which may be erected at a later date.
3. Use or permit or suffer to be used any roofing materials other than roofing materials that have a tile profile (clay, ceramic, concrete, decramastic, pre-coated pressed steel), shingles (cedar, slate or bitumen), painted long-run pressed steel or coloursteel, without first obtaining the written consent of Horncastle Homes Limited or its Nominee. Horncastle Homes Limited or its Nominee shall be entitled to consent to the use of any other or different materials and finishes in its sole and absolute discretion.
4. Erect or permit to be erected or placed on the Property any fence or boundary wall:
 - (a) within 2.0 metres of any road boundary except on lots which have road frontage to two (2) road boundaries, where fencing on the secondary road frontage may be permitted on or near the boundary if the prior written approval of Horncastle Homes Limited or its Nominee is obtained to the type and location of such fence or wall and all conditions and requirements of Horncastle Homes Limited or its Nominee relating to the fence or wall are complied with.
 - (b) subject to subclause (a) within 3.0 metres of any road boundary unless the prior written approval of Horncastle Homes Limited or its Nominee has been obtained to the height and location of the fence or wall and to the type of materials to be used in the fence or wall and all conditions and requirements of Horncastle Homes Limited or its Nominee are complied with.
 - (c) which uses or contains any material containing cement board sheets or panels, corrugated iron or other iron or metal sheets, wire mesh or wire, unless the prior written approval of Horncastle Homes Limited or its Nominee has been obtained.
 - (d) on boundaries fronting a reserve or waterway that has not received prior written approval (including specific design approval) of Horncastle Homes Limited or its Nominee to all aspects of and to the location of the proposed fence.
 - (e) on any internal boundary at a height greater than 1.8 metres above the surrounding finished ground level unless the prior written approval of Horncastle Homes Limited or its Nominee has been obtained.

Cont.

Form L
Annexure Schedule

Page 3 of 5 pages

Insert instrument type

Land Covenant Instrument

Continue in additional Annexure Schedule, if required

"ANNEXURE SCHEDULE 2"

COVENANT PROVISIONS CONT.

In relation to any approval or consent required from Horncastle Homes Limited or its Nominee, any such consent or approval:

- (a) may be declined in the sole and absolute discretion of Horncastle Homes Limited or its Nominee if the proposed fencing or wall is seen to potentially cause any detriment to the subdivision or to any other Property or to any neighbouring property or other amenity.
- (b) may be given subject to such terms and conditions as Horncastle Homes Limited or its Nominee may consider necessary or appropriate and all such terms and conditions shall be strictly observed.

5. Erect on the Property any dwelling-house or other building or undertake any alterations or additions to any dwelling-house or other building unless:

- (a) the plans for the same (including site plans) and specifications for the same have first been submitted to and have been approved in writing by Horncastle Homes Limited or its Nominee, to ensure that aesthetic standards are maintained; and
- (b) the builder of the first dwelling on the Lot (in terms of Clause 13) is Horncastle Homes Limited or a builder approved by Horncastle Homes Limited.

In considering such approval, Horncastle Homes Limited or its Nominee may, if it so elects, take into account such of the following matters relating to the dwelling-house and accessory buildings and other buildings as it, in its sole discretion, considers appropriate:

- (i) Height
- (ii) Siting on the Property
- (iii) External design (including roofs, fences and screens)
- (iv) The relevance of the aforementioned height, siting and external design to the natural light, view and privacy for adjacent properties.
- (v) Architectural design
- (vi) External cladding and materials
- (vii) Colours and colour scheme

Any decision on whether or not to approve any terms and specifications shall be made in the sole and absolute discretion of Horncastle Homes Limited or its Nominee. Horncastle Homes Limited or its Nominee shall not approve any plans and specifications unless it is satisfied that the provisions of Clause 13 (which require the first dwelling on the Lot to be erected by Horncastle Homes Limited or a builder approved by Horncastle Homes Limited) will be complied with.

If there is any difference or dispute as to the matters to be taken into account in approving the plans (including the site plan) and the specifications or as to any decision, then this shall be referred to the arbitration of the President of the New Zealand Institute of Architects or his nominee in accordance with the Arbitration Act 1996, and all costs in respect of such arbitration (including all the costs of Horncastle Homes Limited or its Nominee) shall be payable by the registered proprietor of the property.

Horncastle Homes Limited or its Nominee shall, in its sole and absolute discretion, be entitled to approve the erection of any garage, including a stand-alone garage, which may be erected at a later date.

Cont.

Form L
Annexure Schedule

Page 4 of 5 pages

Insert instrument type

Land Covenant Instrument

Continue in additional Annexure Schedule, if required

"ANNEXURE SCHEDULE 2"

COVENANT PROVISIONS CONT.

6. Permit or suffer any rubbish, noxious substances, noxious livestock and/or birds or animals likely to cause nuisance or annoyance to the neighbouring occupiers, to accumulate and/or be placed upon and/or be on the land or permit grass and/or weeds to grow to such height so as to become unsightly.
7. Suffer any dog or other pet to be kept in or about the Property, which dog or other pet is likely to cause a nuisance or annoyance to other neighbouring occupiers, or detract from the subdivision and in particular, without otherwise limiting this restriction, not to keep on or about the Property any dog which in whole or in part appears to be a Pit-bull Terrier, Rottweiler or Doberman Pinscher. The keeping of pigeons is also expressly prohibited.
8. Permit or suffer any advertisement, sign or hording of a commercial nature (including any real estate agency or sale signs) to be erected on any part of the Property or building without the prior consent in writing of Horncastle Homes Limited or its Nominee.
9. Place or allow to be placed on the Property or buildings any satellite dish or aerials which are visible from any part of any public road or street in the subdivision or any right of way unless the prior written consent of Horncastle Homes Limited or its Nominee has been obtained.
10. Erect or permit to be erected any letterbox unless the design, colour and cladding should be approved by Horncastle Homes Limited or its Nominee.
11. Plant or permit to grow any of the following trees:
 - (a) The following species of Pinus: Radiata (Insignis), Muricata, Ponderosa Contorta, and Cedus Macrocarpa.
 - (b) Douglas Fir (Oregon Pine)
12. Occupy or permit any dwelling on the Property to be occupied until after all landscaping in the area between any public street or road which adjoins the Property and the new dwelling on the Property has been completed in accordance with a landscape plan which has been approved by Horncastle Homes Limited or its Nominee, and the driveway and the entry path(s) (if any) have been formed and completed in accordance with plans which have been approved by Horncastle Homes Limited or its Nominee **PROVIDED THAT** Horncastle Homes Limited may grant exemptions from these restrictions in relation to a particular Lot(s) and on such conditions as it considers appropriate.
13. Erect or permit to be erected the first dwelling on the Lot unless that dwelling is constructed and erected by Horncastle Homes Limited or a builder approved by Horncastle Homes Limited.
14. Permit or allow any vehicle, boat, caravan or other item to be parked or left on any right of way or common accessway. If any vehicle, boat, caravan or other item is parked or left on any part of a right of way or common accessway, it may be towed away, clamped or otherwise removed by any person who has the benefit of these land covenants, or by the contractor(s), or agents of that person, with all costs and expenses to be met by the owner or person using the vehicle, boat, caravan or other item.
15. Further subdivide any Lot **PROVIDED THAT** Horncastle Homes Limited or its Nominee shall, in its sole and absolute discretion, retain the right at all times to further subdivide or approve any other subdivision of any Lot or any future stage of its development.

Cont.

Form L
Annexure Schedule

Page 5 of 5 pages

Insert instrument type

Land Covenant Instrument

Continue in additional Annexure Schedule, if required

"ANNEXURE SCHEDULE 2"

COVENANT PROVISIONS CONT.

16. Interpretation

- 16.1 In these covenants, the terms "Property" and "Lot" include each of the original residential Lots shown on Deposited Plan 468088 (which are described as one of the dominant tenements or the servient tenements) and any Lot or Lots created at any subsequent time by any later subdivision or further subdivision of any lot, including any subdivision of a Lot to create Unit Titles.
- 16.2 For the avoidance of doubt, the owners of any Property or Lot, including any Lot which has been created as a result of later subdivision, shall, subject to complying with these land covenants, be entitled to erect a dwelling and other improvements on each such new Lot.

General

If there should be any breach of non-observance of any of the foregoing covenants and without prejudice to any other liability which the owner of a Lot may have to any person having the benefit of these covenants, the owner of that Lot will upon demand being made by Horncastle Homes Limited or any of the registered proprietors of any of the Lots:

- (a) Remove or cause to be removed from the Property any dwellinghouse, garage, building, fence or other structure erected or placed on the Property in breach or non-observance of the foregoing covenants; or
- (b) Replace any building materials used in breach or non-observance of the foregoing covenants.
- (c) Strictly comply with all the requirements of these covenants.

In any such case, the owner of the Lot who is in breach of these covenants shall pay all legal costs (on a solicitor and client basis) of the other parties and all other costs and expenses of those parties in relation to any enforcement or attempted enforcement of any of these covenants.

These restrictions (other than those in clause 14) shall all apply for a period of ten (10) years from the date of deposit of plan 468088 (Canterbury Land Registration District). The restrictions in clause 14 shall apply in perpetuity.

The restrictions shall not include any roads, reserves or utility Lots.