

Easement instrument to create Land Covenant
Section 90A, Land Transfer Act 1952

Land registration district

Nelson

BARCODE

EI 7433009.13 Easeme

Cpy - 01/01, Pgs - 009, 22/06/07, 14:48



DocID: 212014313

Grantor

Surname must be underlined

BEN NEVIS HOLDINGS LIMITED

Grantee

Surname must be underlined

BEN NEVIS HOLDINGS LIMITED

Grant of easement

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, **creates** the covenant(s) **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Dated this

7th

day of

May

2007

Attestation

Ben Nevis Holdings Limited by its Attorney:

Richard Douglas Martin

Signature of Grantor and Grantee

Signed in my presence by the Grantor and Grantee

Signature of witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

Alain Swain
Legal Executive
Pitt & Moore
Richmond

Certified correct for the purposes of the Land Transfer Act 1952

[Solicitor for] the Grantee

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, **RICHARD DOUGLAS MARTIN** of Wakefield in New Zealand, Company Director hereby certify:-

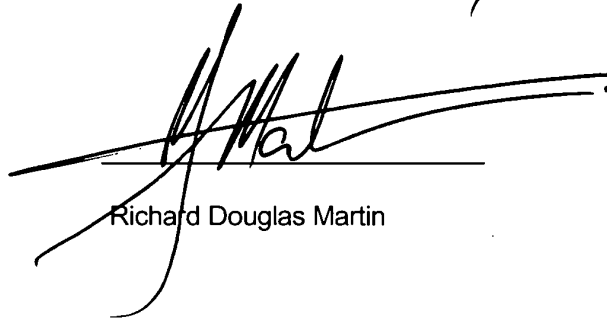
1. **THAT** by deed dated 21 January 2005 **Ben Nevis Holdings Limited** a duly incorporated company having its registered office at Richards Woodhouse, 105 Trafalgar Street, Nelson in New Zealand appointed me its attorney on the terms and subject to the conditions set out in the said deed which was deposited in the Land Registry Office at Christchurch as Sup Doc 349025.
2. **THAT** at the date hereof I have not received any notice or information of the revocation of that appointment by the said **Ben Nevis Holdings Limited**.

SIGNED at Nelson this

7th day of

May

2007



Richard Douglas Martin

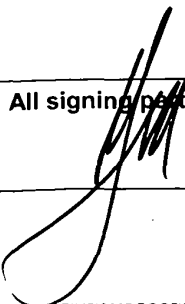
Annexure Schedule I

Schedule A continue in additional Annexure Schedule if required

Purpose (nature and extent) of covenant	Shown (plan reference)	Servient tenement (Identifier/CT) shown on DP 372973	Dominant tenement (Identifier/CT) shown on DP 372973
Land Covenant	In Annexure Schedule II	Lots 1-7 inclusive	Lots 1-7 inclusive and Lot 10

Covenant provisions

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

 All signing parties and either their witnesses or solicitors must sign or initial in this panel

Annexure Schedule II

Easement Instrument

Dated

7 

2007

Continue in additional Annexure Schedule, if required

1. The Registered Proprietor shall not:

(a) For a period of 21 years from the date of this instrument erect or permit to be erected upon the servient land:

(i) Any dwelling, building or other structure with an external wall cladding:

a. of Hardie weatherboards smooth type or similar smooth product or any plank wider than 180mm or

b. of corrugated iron, Coloursteel or other metallic cladding;

where the total area of external cladding comprising such material exceeds 40% of the total area of external cladding, and whether or not the claddings described in (a) or (b) above shall be unpainted or painted and/or coated during or subsequent to manufacture provided however Linea Board or material of similar composition shall not be a breach of this provision

(ii) Any dwelling, building or other structure with a roof cladding of corrugated iron whether unpainted or painted provided that Decramastic and Coloursteel products or products of similar construction precoated in the manufacturing process with a non reflective finish shall not be in breach of this restriction.

(iii) Any pre-used dwelling or structure or any dwelling or structure or other building substantially constructed of or clad in used material.

(iv) More than one permanent dwelling PROVIDED THAT a second dwelling for dependent relatives shall be permitted subject to the consent of the prevailing local authority.

(v) Any buildings other than those the exterior of which is finished in recessive colours (including white), which are sympathetic to the nature of a high quality rural residential environment.

(vi) Any building or structure erected on any part of the property other than in the Designated House Site shown on LT 372973 (and referred to in paragraph 3 hereafter) that exceeds the height of 3 metres above the natural ground level at the highest point of construction

(vii) Any building or structure on Lots 1 to 3 and on 5 to 7 LT 372973 (other than a fence, retaining structure or letterbox/milkbox/paperholder) erected between the Designated House Site on such Lot and Access Lot 8 and on Lot 4 in the area marked J on LT 372973.

- (viii) any hobby glasshouse or tunnel house of such a design and construction and of materials that shall cause glare or nuisance to other lot owners with any such structures to be located or screened to prevent such potential;
 - (ix) any building or structure with exposed pole construction or exposed basement areas to the intent that such sub-floor area shall be fully enclosed;
 - (x) any above ground swimming pool unless enclosed within the structure of the dwelling or within a separate structure or decking.
- (b) Permit any temporary accommodation to be erected or used for a period of longer than 6 months and only during the period of construction of any dwelling.
 - (c) Permit any building exterior to remain unfinished after a period of 12 months which period commences on the date the foundations are first laid.
 - (d) Stop substantial and continuous construction work on any building once commenced for any period longer than three months.
 - (e) Permit the on-site accommodation of heavy vehicles, commercial passenger vehicles, boats, campervans or buses unless garaged;
2. The Registered Proprietor shall not erect any building or structure, nor permit any trees on the lot to exceeds the Maximum Heights, specified in the Table below.

Affected Allotment on LT 372973	Designated Building Site Shown on LT 372973	Height in Centre of Building Site	Maximum Height above Building Site Height
Lot 1	C	177.74m	5.5m
Lot 2	D	177.63m	5.5m
Lot 3	E	176.99m	5.5m
Lot 4	F	162.19m	5.5m
Lot 5	G	167.93m	5.5m
Lot 6	H	162.06m	5.5m
Lot 7	I	141.22m	7.5m
Origin of Heights Trig G Wai-iti (A3vl) 190.20m Above Mean Sea Level			

Provided however any tree standing at the date of this instrument shall not be in breach of this covenant.

The Registered Proprietor shall not subdivide the land herein for a period of seven years from the date of registration of this instrument provided however a boundary

adjustment that does not increase the number of titles shall not be a breach of this clause.

4. The Registered Proprietor shall not use or permit the use of the land for other than private residential purposes to the intent that such property shall not be used for institutional residential purposes or as a hostel, lodge, or boarding house. For the purposes of this clause "institutional residential purposes" shall include the use of the property for housing purposes by central or government agencies or public or private health or education sector agencies.
5. The Registered Proprietor shall not use the land for any commercial purpose but "home occupations" allowed in the District Plan are permitted. For the purposes of this clause all forms of industrial type activities (be they home occupations or hobbies or otherwise) are prohibited.
6. The Registered Proprietor shall not use the land nor permit such land to be used for intensive livestock farming which shall include but not be limited to the keeping of poultry or pigs for commercial purposes. For the purposes of this covenant "intensive livestock farming" shall have the meaning set out in the prevailing district plan at the date of this transfer.
7. The Registered Proprietor shall not use the land for plantation forestry as defined in the prevailing district plan.
8. The Registered Proprietor shall within 12 months of the commencement of erecting a dwelling plant no less than 6 trees or shrubs of no less than two metres in height at the date of planting in such a position in the vicinity of the dwelling and outbuildings so as to assist to "screen" those buildings from buildings erected on other allotments on the developers (Ben Nevis Limited "the Company") subdivision. All hedges or shelterbelt type plantings (as defined in the prevailing District Plan) shall be maintained at a maximum height of three metres.
9. The Registered Proprietor shall keep the land in a neat and tidy state and shall not permit excessive growth of grass or other weeds, noxious plants or vegetation of any kind.
10. For the purpose of these covenants "dwelling" shall have the meaning set out in the prevailing district plan at the date of application for a building consent for a dwelling on the land.
11. The Registered Proprietor shall bury all water storage tanks to a minimum of 60% of its height/depth or to the extent as permitted by the manufacturers.
12. The registered proprietor shall not keep any more than two (2) dogs on their house lot provided however puppies under the age of ten (10) weeks, born to a resident dog, shall not be a breach of this covenant.
13. The Registered Proprietor shall accept that this development is a stage of an ongoing development of the Company's total property in the area. The Registered Proprietor shall not object to or be party to any objections further development stages.
14. The Registered Proprietor shall not damage or permit to be damaged by its tenants, agents, contractors, workman or invitees any landscaping, roading, footpaths, culverts, water tables, berms or other structures created as part of the subdivision and in the event of any such damage shall be responsible for any costs incurred by

the Company in rectifying such damage.

15. The Company shall not be liable for any action it takes or fails to take or for any breach of these restrictions or otherwise and the registered proprietors for the time being of the servient lots shall indemnify and keep indemnified the Company and its successors and assigns (other than successors in title after registration of a Memorandum of Transfer) from any costs, claims, suits, demands, liabilities or otherwise howsoever arising out of or under or by virtue of this Land Covenant in respect of the servient lots which have been transferred by the Company to another registered proprietor.
16. In the event of there being any dispute as to the scope, interpretation, implementation or meaning of the covenants aforesaid the same shall be submitted to the arbitration of a single arbitrator if the parties can agree upon one or failing agreement then to the arbitration of two arbitrators one to be appointed by each party to the reference, or their umpire, to be appointed before entering into the business of the reference to arbitration to be carried out under the provisions of the Arbitration Act 1996 or any amendments thereto or any legislation enacted in substitution thereof.

To the District Land Registrar, Nelson

Please register the within Covenant against the Servient and Dominant Titles

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this panel.



ANNEXURE SCHEDULE

Land Transfer Act 1952 section 238(2)

Person giving consent
Surname must be underlined

Capacity and interest of Person giving consent
(eg Caveator under Caveat No)

ANZ National Bank Limited	Mortgagee under mortgage 6023429.3
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Consent

Without prejudice to the rights and powers existing under the interest of the person giving consent the **Person giving consent hereby consents** to registration of the within instrument.

Dated this 14th day of May 2007

Attestation:

ANZ National Bank Limited by its Attorney KAPUA KATRINA GARDINER 	Executed by the Mortgagee giving consent by its Attorneys in the presence of _____ Signature of witness _____ Name of witness _____ Occupation _____ Address Witness: Pauline Ann Peri Occupation: Bank Officer Address: Auckland
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An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.

The ANZ National Bank Limited

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, **KAPUA KATRINA GARDINER**, Manager Lending Services of Auckland in New Zealand, certify that:

1. By Deed dated 28 June 1996 deposited in the Land Registry Offices situated at:

Auckland	as No.	D.016180	Hokitika	as No.	105147
Blenheim	as No.	186002	Invercargill	as No.	242542.1
Christchurch	as No.	A.256503.1	Napier	as No.	644654.1
Dunedin	as No.	911369	Nelson	as No.	359781
Gisborne	as No.	G.210991	New Plymouth	as No.	433509
Hamilton	as No.	B.355185	Wellington	as No.	B.530013.1

The National Bank of New Zealand Limited appointed me its attorney with the powers and authorities specified in that Deed.

2. On 26 June 2004 The National Bank of New Zealand Limited was amalgamated with ANZ Banking Group (New Zealand) Limited to become ANZ National Bank Limited and the rights, powers and property covered by the Deed have become the rights, powers and property of ANZ National Bank Limited (as the amalgamated company) under Part XIII of the Companies Act 1993.
3. On 18 August 2006 Arawata Investments Limited and Philodendron Investments Limited (**Amalgamating Companies**) among other companies, amalgamated with ANZ National Bank Limited to become ANZ National Bank Limited. Accordingly, on that date ANZ National Bank Limited (as the amalgamated company) succeeded to all the property, rights, powers, privileges, liabilities and obligations of each of the Amalgamating Companies under Part XIII of the Companies Act 1993.
4. At the date of this certificate, I am a Manager Lending Services, Auckland Lending Services Centre of The National Bank of New Zealand, part of the ANZ National Bank Limited.
5. At the date of this certificate, I have not received any notice of the revocation of that appointment by the winding-up or dissolution of the ANZ National Bank Limited or otherwise.

SIGNED by the abovenamed)

Attorney at Auckland on this)

14th day of May 2007)


KAPUA KATRINA GARDINER