Easement Instrument to Grant Easement

Sections 90A and 90F, Land Transfer Act 1952

EI 7738117.6 Easement I
Cpy - 01/01, Pgs - 011, 04/03/08, 13:45
DocID: 212150199

Land registration district

Nelson

Grantor *Surname must be underlined*

Urs Felix UHLMANN and Kerstin UHLMANN

Grantee *Surname must be underlined*

Urs Felix UHLMANN and Kerstin UHLMANN

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) 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).

Dated this 18th day of February 2008

Attestation

Urs Felix UHLMANN by his attorney **Kerstin UHLMANN by her attorney** **Signature [common seal] of Grantor**	**Signed in my presence by the Grantor** *Signature of witness* *Witness to complete in BLOCK letters (unless legibly printed)* **Witness name** Terence Allan Frater **Occupation** Legal Executive **Address** MOTUEKA

Urs Felix UHLMANN by his attorney **Kerstin UHLMANN by her attorney** **Signature [common seal] of Grantee**	**Signed in my presence by the Grantee** *Signature of witness* *Witness to complete in BLOCK letters (unless legibly printed)* **Witness name** Terence Allan Frater **Occupation** Legal Executive **Address** MOTUEKA

Certified correct for the purposes of the Land Transfer Act 1952.

[Solicitor for] the Grantee

*If the consent of any person is required for the grant, the specified consent form must be used.

Certificate of Non-Revocation of Power of Attorney

I, **PHILIP WILLIAM EARL DONALDSON** of Motueka in New Zealand, Solicitor, hereby certify:

1. **THAT** by Deed dated the 9th of January 2008 **KERSTIN UHLMANN** of Motueka in New Zealand, Businesswoman appointed me her attorney on the terms and subject to the conditions set out in the said Deed.

2. **THAT** at the date hereof I have not received any notice or information of the revocation of that appointment by the death or otherwise of the said **KERSTIN UHLMANN**.

3. **THAT** a copy of the said Deed was deposited with Land Information New Zealand on the 22nd day of January 2008 under registered number 705935.

SIGNED at Motueka this 18th day of January 2008

PHILIP WILLIAM EARL DONALDSON

Certificate of Non-Revocation of Power of Attorney

I, **PHILIP WILLIAM EARL DONALDSON** of Motueka in New Zealand, Solicitor, hereby certify:

1. **THAT** by Deed dated the 9th of January 2008 **KERSTIN UHLMANN** of Motueka in New Zealand, Businesswoman appointed me her attorney on the terms and subject to the conditions set out in the said Deed.

2. **THAT** at the date hereof I have not received any notice or information of the revocation of that appointment by the death or otherwise of the said **KERSTIN UHLMANN**.

3. **THAT** a copy of the said Deed was deposited with Land Information New Zealand on the 22nd day of January 2008 under registered number 705935.

SIGNED at Motueka this 18th day of February 2008

PHILIP WILLIAM EARL DONALDSON

ANNEXURE SCHEDULE 1

Easement instrument Dated 18th February 2008 Page 2 of 7 pages

Schedule A *Continue on additional Annexure Schedule if required.*

Purpose (nature and extent) of easement, *profit*, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT *or* in gross)
Land Covenant	All CT 372677 All CT 372678 All CT 372679 All CT 372680 All CT 372681 All CT 372682	372677 372678 372679 372680 372681 372682	Lots 2, 3, 4, 5 & 6 DP 392992 Lots 1, 3, 4, 5 & 6 DP 392992 Lots 1, 2, 4, 5 & 6 DP 392992 Lots 1, 2, 3, 5 & 6 DP 392992 Lots 1, 2, 3, 4 & 6 DP 392992 Lots 1, 2, 3, 4 & 5 DP 392992

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

Continue in additional Annexure Schedule if required.

Covenant provisions
Continue in additional Annexure Schedule if required.

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

[Annexure Schedule 2].

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

ANNEXURE SCHEDULE 2

The Grantor covenants with the Grantee in respect of the respective servient tenements for the benefit of the respective dominant tenements, to the intent that the respective servient tenements shall be bound by the stipulations and restrictions set out herein and that the owners and occupiers for the time being of the respective dominant tenements may enforce the observance of such stipulations against the owners for the time being of the respective servient tenements as follows:-

1. In respect of **Building**:-

   Not to construct, erect or place or permit to be constructed, erected or placed on the servient tenement:-:

   a. Any building, structure or improvement without first obtaining the written approval of **Urs Felix UHLMANN** and **Kerstin UHLMANN** ("the Vendor") (or their nominated representative) to the final building plans and specifications (and where appropriate in the same form as intended to be submitted to the Territorial Authority for a building consent) and such specifications shall include full details of all exterior colour schemes and finishes and details of fences, driveways and front yard landscaping,

      PROVIDED HOWEVER approval of the Vendor shall be entirely at the Vendor's discretion in all respects provided however that should the Vendor (or their nominated representative) fail to approve or disapprove such plans and specifications within 20 working days of receipt of the same, then they shall be deemed to have approved the same. The Grantor shall not apply for a building consent until such time as the Vendor's approval, whether deemed or otherwise, has been obtained,

      AND the Vendor shall be entitled to serve an injunction notice on the Grantor to cease all work if the Grantor shall commence any construction work without having first obtained the approval of the Vendor in accordance with this clause,

      PROVIDED FURTHER HOWEVER that the obligation to obtain the approval of the Vendor (or their nominated representative) pursuant to this clause shall expire ten (10) years after the date of registration of the transfer of the Property by the Vendor to the Grantor, but shall not release the Grantor from its obligation to comply with these covenants.

   b. More than one household dwelling unit.

   c. Any building of an A-frame style.

   d. Any building using pole foundations.

   e. Any dwelling that is a single rectangle or does not contain at least one roof break or full valley in the roof.

   f. Any relocated, transportable, kit-set or used building or structure provided that:

      i. One prefabricated garden shed which is adequately screened from neighbouring properties may be placed on the servient tenement; and

      ii Builder's sheds or other similar buildings required during construction of any dwelling may be placed on the servient tenement during such

construction, but must be removed on completion of such construction.

g. Any dwelling, building or other structure using any galvanised iron, zincalume or aluminium cladding material unless such cladding material has a proprietary coating system, or any sheet material (e.g. fibre cement sheet, Hardie sheet or weatherboard products, ply sheets) unless such material has a proprietary finishing system applied or is properly sealed and painted, or any other building material which in the opinion of the Vendor (or their nominated representative) detracts from the good quality of the subdivision and the local housing standard.

h. Any fence constructed of corrugated iron, any used material, or any other material or in a style which detracts from the good quality of the subdivision giving rise to the servient tenements and the local neighbourhood standard.

2. Not to allow completion of construction of any building, structure or improvement on the servient tenement to be longer than 12 months from the commencement of work on any such building, structure or improvement and the Grantor shall not allow a period of more than three months to elapse without substantial work being carried out once such work has commenced.

3. Not to reconstruct, alter, add to, renovate or refurbish any building, structure or other improvement on the servient tenement which results in such building or structure no longer being of a standard commensurate with the exterior appearance and architectural standard of the properties in the said subdivision or being in breach of these covenants.

4. Not to allow any masts, aerials, other structures, trees or shrubs to exceed a height of 7 metres above the average ground level of the servient tenement.

In respect of **Activity/Use of Property**:-

5. Not to occupy nor allow any dwelling constructed on the servient tenement to be occupied until the dwelling has been completed in accordance with the requirements of the local authority nor allow any temporary structures, vehicles, caravans, tents or other similar accommodation to be used for temporary residential purposes prior to the completion of the dwelling.

6. Not to allow any livestock, animals or beehives to be brought onto or kept on the servient tenement other than normal household domestic pets (and the term "household domestic pets" specifically excludes livestock such as pigs, goats, horses, sheep, chickens, roosters, pigeons, peacocks or any animal which may cause a nuisance to owners or occupiers of other properties in the said subdivision) and in particular, not to keep or allow to be kept on the property any dog which is generally recognised as being of an aggressive breed and which may cause a risk to owners or occupiers of other properties in the said subdivision (e.g. Pit-bull terrier, Rottweiler and Doberman Pincher).

7. Not to carry out nor permit to be carried out on the servient tenement any activity which does not comply with the Tasman District Council permitted activities in a Residential Zone.

In respect of **Fencing**:-

8. Not to require the Vendor to be liable to erect or maintain or contribute towards the costs of any dividing fence or boundary fence or part thereof between the servient tenement and any adjoining land, but this provision shall not inure for the benefit of any Transferee of such adjoining land.

In respect of **Maintenance**:-

9. a. Not allow any building or structure on the servient tenement to become dilapidated or to fall into disrepair nor allow any nuisance or unreasonable disturbance to be caused to any owner or occupier of neighbouring properties.

   b. Not move, damage or remove any survey pegs or markers on the servient tenement and in the event of any breach of this restriction the Grantor shall at their cost have such pegs or markers replaced by a registered surveyor and if the Grantor shall not comply with this covenant within 30 days of being requested to do so by the Grantee, then the Grantee shall have the right to instruct a registered surveyor to replace such pegs and markers and the Grantor shall be liable for all associated costs.

   c. Not allow the servient tenement to become littered, overgrown or unsightly (including not allowing grass to grow to a height greater than 200 millimetres), nor allow any noxious weeds (including gorse, blackberry or ragwort) to grow on the land to the intent that the servient tenement shall be maintained in a neat and tidy condition.

   d. Not allow any trade vehicle, trade equipment or materials, debris, rubbish or any vehicle of any unsightly nature to be brought onto or remain on the servient tenement unless the same is adequately garaged or screened so as not to be visible to or to cause any offence to neighbouring properties and to preserve the amenity of the said subdivision, except when building operations are in progress.

The Grantor further covenants with the Grantee that:-

10. In the event of any breach or non-observance of any covenant herein and without prejudice to any other remedies available to the Grantee or to any other person having the benefit of the said covenants, the Registered Proprietor of the servient tenement to which such breach or non-observance applies will upon written demand made by the Vendor or any of the Registered Proprietors of the dominant tenements for the time being:-

    a. Pay to the person making such demand as liquidated damages the sum of $100.00 per day for every day that such breach or non-observance continues after the date upon which written demand had been made.

    b. Remove or cause to be removed from the servient tenement any pre-used dwelling, building or other structure erected or placed on the land in breach of non observance of the Restrictive Covenants.

    c. Replace any building materials used or permitted to be used in breach or non-observance of the Restrictive Covenants.

11. Any difference or dispute between any parties regarding the interpretation of these covenants or as conferred by such covenants shall be referred at the request of either party to the arbitration of a single arbitrator on the following terms

    a. The arbitrator is to be jointly agreed upon by the parties;

    b. If the parties fail to agree upon an arbitrator within seven (7) days of notice from one party to the other, then the arbitrator shall be appointed by the President of the Nelson District Law Society for the time being and such nomination will bind the parties;

    c. The reference is a reference to a single arbitration under the Arbitration Act 1996;

    d. The arbitrator's decision shall be final and binding on both parties and may include an order for costs, an order for enforcement and interest on monies payable;

    e. The parties will not resort to litigation except for the purposes of enforcing this clause.

12. The Vendor will not be liable because of any action they take or fail to take or for any default in any building, structure or improvement erected on any of the servient tenements in the said subdivision or for any breach of these covenants or otherwise and the registered proprietors for the time being of the servient and dominant tenements shall indemnify and keep indemnified the Vendor and its legal successors (other than successors in title after registration of a transfer from the Vendor to a subsequent owner) from any costs, claims, suits, demands or liabilities arising out of or under these covenants.

AND IT IS HEREBY REQUESTED that the easements herein be entered in the register of the respective dominant and servient tenements.

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

ANNEXURE SCHEDULE – CONSENT FORM

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)*
Bank of New Zealand	Mortgage under mortgage 6104112.3

Consent

Delete words in [ ] if 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 an Easement Instrument granting a Land Covenant in respect of the land in Certificates of Title 372677, 372678, 372679, 372680, 372681 and 372682 as attached.

Dated this 27th day of February 2008

Attestation:

	Signed in my presence by the Person giving consent
Bank of New Zealand SIGNED for and on behalf of BANK OF NEW ZEALAND by its Attorney ..... Andrew Mark Rainey ..... **Signature [Common seal] of person giving consent**	..... *Signature of Witness* *Witness to complete in BLOCK letters (unless legibly printed)* Witness: ..... Occupation: FERILA JAY TO NIKO BANK OFFICER BANK OF NEW ZEALAND WELLINGTON Address: .....

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.

Bank of New Zealand

CERTIFICATE OF NON-REVOCATION
OF POWER OF ATTORNEY

I, , Bank Officer of Wellington, New Zealand
certify: Andrew Mark Rainey

1. That by deed dated 12 July 2005, Bank of New Zealand, of Level 14, BNZ Tower, 125 Queen Street, Auckland, New Zealand, appointed me its attorney.

2. A copy of the deed is deposited in the North Auckland registration district of Land Information New Zealand as dealing No. 6508607.1

3. That I have not received notice of any event revoking the power of attorney.

SIGNED at Wellington this 27th day of February 2008

[Full name] Andrew Mark Rainey