

View Instrument Details



Instrument No 8694894.1
Status Registered
Date & Time Lodged 15 February 2011 10:44
Lodged By Spicer, Nicole Leanne
Instrument Type Easement Instrument



Affected Computer Registers	Land District
509446	Canterbury
509447	Canterbury
509448	Canterbury
509449	Canterbury
509450	Canterbury
509451	Canterbury
509452	Canterbury
509453	Canterbury
509454	Canterbury
509455	Canterbury
509456	Canterbury
509457	Canterbury
509458	Canterbury
509459	Canterbury
509461	Canterbury
509462	Canterbury
509463	Canterbury
509464	Canterbury
509465	Canterbury
509466	Canterbury
509467	Canterbury
509468	Canterbury
509469	Canterbury
509470	Canterbury
509471	Canterbury
509472	Canterbury
509473	Canterbury
509474	Canterbury
509475	Canterbury
509476	Canterbury
509477	Canterbury
509478	Canterbury
509479	Canterbury
509480	Canterbury
509481	Canterbury
509482	Canterbury
509483	Canterbury
536237	Canterbury
541787	Canterbury

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 Encumbrancee under Encumbrance 8605452.5 has consented to this transaction and I hold that consent

Signature

Signed by Chris John Robertson as Grantor Representative on 11/02/2011 01:35 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 Chris John Robertson as Grantee Representative on 11/02/2011 01:35 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

ASHBURTON DISTRICT COUNCIL

Grantee

ASHBURTON DISTRICT COUNCIL

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

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference) <i>required</i>	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Restrictive land covenant		509446	509446
		509447	509447
		509448	509448
		509449	509449
		509450	509450
		509451	509451
		509452	509452
		509453	509453
		509454	509454
		509455	509455
		509456	509456
		509457	509457
		509458	509458
		509459	509459
		509461	509461
		509462	509462
		509463	509463
		509464	509464
		509465	509465
		509466	509466
		509467	509467
509468	509468		
509469	509469		
509470	509470		
509471	509471		

Restrictive land covenant cond.		509472	509472
		509473	509473
		509474	509474
		509475	509475
		509476	509476
		509477	509477
		509478	509478
		509479	509479
		509480	509480
		509481	509481
		509482	509482
		509483	509483
		536237	536237
		541787	541787

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 1]

ANNEXURE SCHEDULE 1

CONTINUATION OF COVENANT PROVISIONS

Background

- A. The Council is developing the Land, together with the Servient Tenement and the Dominant Tenement as part of the Ashburton Business Estate.
- B. The Council intends that the Land and the Servient Tenement and the Dominant Tenement be subject to and have the benefit of a general scheme to ensure that the Ashburton Business Estate is developed and administered in a co-ordinated manner ("the Scheme").
- C. The Council intends that this Instrument be registered against the titles to the Land and to each of the Servient Tenement and the Dominant Tenement to give effect to the Scheme so that:
 - (i) owners and occupiers for the time being of the Servient Tenement shall be bound by the provisions of this Instrument;
 - (ii) owners and occupiers for the time being of any of the Dominant Tenement can enforce the observance of the provisions of this Instrument by the owners and occupiers for the time being of any of the Servient Tenements in equity or otherwise; and
 - (iii) the obligations and covenants of the Grantor under this Instrument are for the benefit of the Grantee.

1. Interpretation

- 1.1 In this Instrument unless the context otherwise requires:

Allotment means any of the Servient Tenements described above.

Building means any structure on any Allotment other than:

- (a) a fence or wall less than one metre in height;
- (b) any other structure less than five square metres in area and less than one metre in height.

Council means the Ashburton District Council in its own right and not in its capacity as Grantee.

Covenants means the covenants set out in this Instrument.

District Plan means the Ashburton District Plan.

Land means the land contained in Computer Freehold Registers:

(i)	509446
(ii)	509447
(iii)	509448
(iv)	509449
(v)	509450
(vi)	509451
(vii)	509452
(viii)	509453
(ix)	509454
(x)	509455
(xi)	509456
(xii)	509457
(xiii)	509458
(xiv)	509459
(xv)	509461
(xvi)	509462
(xvii)	509463
(xviii)	509464
(xix)	509465
(xx)	509466
(xxi)	509467
(xxii)	509468
(xxiii)	509469
(xxiv)	509470
(xxv)	509471
(xxvi)	509472
(xxvii)	509473
(xxviii)	509474
(xxix)	509475
(xxx)	509476
(xxxi)	509477
(xxxii)	509478
(xxxiii)	509479
(xxxiv)	509480
(xxxv)	509481
(xxxvi)	509482
(xxxvii)	509483
(xxxviii)	536237
(xxxix)	541787

Stormwater Consent means the stormwater consent held by the Council for the Land and numbered CRC 084594.

2. **General Covenants**

2.1 The Grantor covenants and agrees:

- (a) To observe and perform all the Covenants at all times;

- (b) That the Covenants shall run with and bind the Servient Tenement for the benefit of the Dominant Tenement.
- (c) To pay the Grantee's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Grantee's rights, remedies and powers under this Instrument; and
- (d) To indemnify the Grantee against all claims and proceedings arising out of a breach by the Grantor of any of its obligations set out in this Instrument.

3. Covenants relating to Buildings and Landscaping

3.1 The Grantor covenants with the Grantee to:

- (a) **Complete construction:** Not permit or suffer any Building in the course of construction to be left without substantial work being carried out for a period exceeding three (3) months and to complete construction of any Building within eighteen (18) months of the commencement of work.
- (b) **Building materials:** Not, without the prior written consent of the Grantee, use or permit to be used in any Building second-hand materials.
- (c) **Completion of landscaping:** Complete the landscaping of the Property within three months of the earlier of the completion of construction or occupation of any Building on the Grantor's Allotment.

4. Maintenance Covenants

4.1 The Grantor covenants with the Grantee to:

- (a) **Removal of rubbish:** Not permit or suffer any rubbish to accumulate or be placed on the Grantor's Allotment other than in suitable receptacles. For the avoidance of doubt this clause will not prevent the storage of pallets.
- (b) **Grass:** Not permit any excessive growth of grass on the Grantor's Allotment so that the same exceeds 150mm in height or otherwise becomes unsightly.
- (c) **Replanting and reinstatement:** Take all reasonable steps to replant and reinstate any landscaping that is damaged or destroyed, or any tree or plant forming part of the landscaping that dies or becomes diseased.

5. Fencing Covenant

5.1 The Grantor will not call upon the Grantee to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the Grantor's Allotment and any adjoining land of the Grantee. The benefit of this clause 5.1 shall be limited to those parts of Allotments owned by the Council and this clause will not enure for the benefit of any subsequent registered proprietor of any adjoining land.

6. **Covenants in relation to Future Development**

- 6.1 The Grantor covenants and agrees with the Grantee that the Grantor will not at any time personally or through any agent or servant directly or indirectly lodge or support in any way any objection or submission to any application for resource consent and/or plan change and/or variation of any nature under or to the District Plan by the Council to subdivide, develop or use the Land for any commercial activity.
- 6.2 The benefit of clause 6.1 shall be limited to those parts of the Land owned by the Council and that clause will cease to have effect on the date on which no part of the Land is owned by the Council.

7. **Stormwater Consent**

- 7.1 The Grantor covenants and agrees to:
- (a) Accept a partial transfer of the Stormwater Consent insofar as it relates to the Grantor's Allotment and will sign all documents and do all things required to give effect to such partial transfer;
 - (b) Comply with the conditions of the Stormwater Consent insofar as they relate to the Grantor's Allotment regardless of whether the transfer has been effected or not;
 - (c) Insofar as they relate to the Grantor's Allotment, comply with all lawful notices and demands given or made by any competent authority in respect of the Stormwater Consent;
 - (d) Indemnify the Council in respect of any damages, costs or claims against the Council arising from a breach of the terms and conditions of the Stormwater Consent caused or contributed to by the Grantor; and
 - (e) Allow the Council's employees, contractors and invitees to enter upon the Grantor's Allotment at all reasonable times to perform any obligations or duties imposed by the Stormwater Consent in the even of any default by the Grantor in the due and punctual compliance with the same.
- 7.2 The Grantor acknowledges and accepts that it shall be responsible for obtaining any additional consents that may be required for the discharge of stormwater into land within the Grantor's Allotment.

8. **General Provisions**

- 8.1 **Severability:** If any of the provisions of this Instrument is judged invalid, unlawful or unenforceable for any reason whatsoever by a Court of competent jurisdiction, such invalidity, unenforceability or illegality will not affect the operation, construction or interpretation of any other provision of this Instrument to the intent that the invalid, unenforceable or illegal provisions will be treated for all purposes as severed from this Instrument.

- 8.2 **No waiver:** A party will not be deemed to have waived any right under this Instrument unless the waiver is in writing and signed by that party. A failure to exercise or delay in exercising any right under this Instrument will not operate as a waiver of that right. Any such waiver will not constitute a waiver of any subsequent or continuing right or of any other provision in this Instrument.