

View Instrument Details



Instrument No 10158367.8
Status Registered
Date & Time Lodged 06 November 2015 16:25
Lodged By Taylor, Lynette Dianne
Instrument Type Easement Instrument



Toitū Te Whenua
Land Information
New Zealand

Affected Computer Registers	Land District
454925	South Auckland
454926	South Auckland
454927	South Auckland
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454951	South Auckland
454952	South Auckland

Annexure Schedule: Contains 8 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 6633489.3 has consented to this transaction and I hold that consent

**Signature**

Signed by Lynette Dianne Taylor as Grantor Representative on 06/11/2015 12:33 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 Lynette Dianne Taylor as Grantee Representative on 06/11/2015 12:35 PM

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

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

~~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

Form L**Annexure Schedule**

Page 1 of 6 Pages

*Insert instrument type***EASEMENT INSTRUMENT***Continue in additional Annexure Schedule, if required***LAND COVENANT PROVISIONS****Definitions**

1. The Grantee and Grantor acknowledge and agree that the property forms part of a development to be established as a modern and well designed residential subdivision. The Grantee and Grantor therefore agree that the within property and all properties forming part of the plan of subdivision will be subject to the following building and land covenants so as to bind them, their successors and assigns.
2. In recognition of these objectives, the Grantor so as to bind the land contained in each of the titles ("the land") comprising the servient tenements for the benefit of the land contained in each of the other titles comprising the dominant tenements, covenants and agrees with the Grantee and such other person or persons as are nominated by the Grantee as follows:
 - (i) The Grantor will not erect or place (or permit to be erected or placed) on the land any dwelling or building without first obtaining the approval of Maniaroa Properties Limited ("the Developer") in writing, to the plans of such dwelling or building and the materials, finished in exterior colours to be used in the construction of the dwelling or building. Any variation to or deviation from the approved plans not approved by the Developer will be a breach of this clause.
 - (ii) As a guide to construction and design details, the Grantor will:
 - (a) Not erect or place on the land or allow to be erected, constructed or placed on the land any dwelling house which is not a new residential dwelling house. The dwelling shall have a minimum ground floor area of 171m² inclusive of garage, but excluding carports and decking. The exterior cladding shall consist entirely of any of the following materials:
 - (i) Kiln fired or concrete brick approved by the Developer;
 - (ii) Stucco finish on James Hardie Linea Board, polystyrene, concrete block, brick or solid concrete;
 - (iii) Stone;
 - (iv) Timber;
 - (v) Tilt slab;
 - (vi) Linea board
 - (vii) Metal laminate on solid timber;
 - (viii) The colour of any paint finish of the exterior of the dwelling must be approved by the Developer.

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Annexure Schedule

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*Insert instrument type***EASEMENT INSTRUMENT***Continue in additional Annexure Schedule, if required***PROVIDED THAT:**

- (b) Alternative upper floor exterior cladding may be used if first approved by the Developer.
- (c) The Developer may waive the minimum floor area if it is satisfied that in all other respects the dwelling house complies with all other requirements of the covenants contained in these clauses.
- (d) In addition, the Grantor shall agree not to allow any form of metal roofing on the land unless the same has been pre-painted.

3. The Grantor also covenants:

- (a) Not to permit the construction of the exterior of any dwelling house on the land to take more than a period of six months from the commencement of construction of that dwelling house.
- (b) Not to permit the driveway on the land to remain uncompleted without a solid running course for more than three (3) months after completion of the dwelling house. The driveway is required to be finished with an exposed aggregate finish or dark tinted concrete to blend in with the colour and texture of the footpaths.
- (c) That no work for the erection of improvements whether the same be for buildings, accessory buildings or fences and this shall also include exterior finish and excavation of foundations upon the land shall be commenced unless plans and specifications and all other details of construction and finish as the Developer at its absolute discretion may require, have been first submitted to it, or its agents, and have received its written approval. Such approval shall not be unreasonably withheld where the Developer is satisfied that the dwelling will comply with the terms of clauses 1 and 2 hereof and the Grantor shall not erect or permit to be erected any improvement upon the land not first approved by the Developer in terms of this clause.
- (d) Not to permit or carry out the erection of any temporary building or structure on the land except such as may be used in conjunction with the construction of permanent buildings and which will be removed from the land upon completion of the work.
- (e) Not to permit or carry out the placing or erection upon the land of any building previously erected on other land excepting transportable homes approved by the Developer and temporary structures placed there in conjunction with the construction of permanent buildings as described in 3 (c) and 3 (d) above.

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*Insert instrument type***EASEMENT INSTRUMENT***Continue in additional Annexure Schedule, if required*

- (f) Not to subdivide or cross-lease the land and will not erect or allow to be erected on the land any buildings other than one family dwelling house with internal garaging.
- (g) Not to permit or cause the land to be occupied or used as a residence unless:
 - (i) a building has been substantially completed in accordance with the terms of this agreement; and
 - (ii) the building meets the requirements of the appropriate Local Authority.
- (h) That no dwelling shall be constructed to a single rectangle or square and it must contain more than two hips or two gables in the roof line. Flat or raked roof dwellings are acceptable provided they meet all the covenants and have more than one level of roofing. This condition may be waived at the sole discretion of the Developer.
- (i) Not to erect or allow to be erected any fence constructed of corrugated or long run iron or post and wire or from used materials. All fences and retaining structures are to comply with Local Authority requirements, however, no fence shall exceed 1.8 metres in height above the finished ground level of the property unless prior approval of the Developer is sought.
- (j) To pay for construction and maintenance of any fence constructed on the boundary of any adjoining Council owned land and not to seek contribution from the Council or the Developer for such construction or maintenance cost.
- (k) No fence shall exceed 1.2 metres above natural ground level on any side boundary closer than five metres from the street boundary or closer than the house to the street boundary whichever is the greater. The top of the fence will in all cases be level.
- (l) No fence other than plastered air stone, concrete block, brick, wrought iron or any other alternative not approved by the Developer is to be erected on or within two metres of the street boundary and in any event not more than 1.2 metres high. If any other fence other than that erected with the above materials is erected within three metres of the road frontage it will be screened from the street with soft landscaping.
- (m) Not to permit or cause the removal of soil from the land except as shall be necessary for the construction of the building thereon.

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*Insert instrument type***EASEMENT INSTRUMENT***Continue in additional Annexure Schedule, if required*

- (n) Not to permit or cause any rubbish to accumulate or be placed upon the land and not to permit any excessive growth of grass so that the same becomes long or unsightly. A covered rubbish bin shall be provided by the Grantor during the construction period of the dwelling house and be kept within the boundary. Once the construction of the dwelling house has been completed the rubbish bin must be removed from the land.
 - (o) Not to permit or cause any advertisement, sign or hoarding of a commercial nature to be erected on any part of the land without the prior consent in writing of the Developer.
 - (p) Not to bring on to raise, breed or keep any animals or livestock on the land or buildings except to keep a maximum of three animals limited to dogs and cats without prior written approval is given by the Developer. These shall animals shall not be allowed to become a nuisance to others in the subdivision and all dogs shall be controlled so as to prevent them from roaming the subdivision at will.
 - (q) All clotheslines and garden sheds are to be away from the road or right of way access and obscured from sight of the road or right of way access. Metal garden sheds are not permitted unless they have been pre-painted.
 - (r) Not to park any vehicle, motorhome, caravan or boat on or within five metres of any street or right of way unless situated within closed garages, constructed on the land, provided that this prohibition shall not apply to any invitee of the Grantor where such invitees are not residing with the Grantor and the vehicles are parked temporarily only.
4. The Developer has the right to plant trees on the boundary of any lot which abuts a street. The Grantors will not screen that landscaping from the street nor alter that landscaping in any way without the prior consent of the Developer.
 5. In the event that the Grantor or any contractor, employee or invitee of the Grantor causes any damage to the roading, footpath, curb or other structure in the subdivision or to any property other than the property of the Grantor within the subdivision, the Grantor covenants to forthwith make good the damage at their own expense or to pay the cost of the repair to the damage in the event that such repair is affected by the Developer. To provide support of this clause, the Grantor will pay an additional \$1,500.00 by way of bond on settlement and such money will be held in Trust by the Developer's solicitors to be refunded once the Grantor has completed construction of the dwelling and driveway. If any damage has been caused under the first part of this clause the \$1,500.00 or part thereof will be used to make good such damage. The decision on the retention or repayment of the part or the entire bond will be at the sole and absolute discretion of the Developer.

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*Insert instrument type***EASEMENT INSTRUMENT***Continue in additional Annexure Schedule, if required*

6. The Developer will mow the land for a period six (6) months after the issue of title at a total cost of \$300.00 to the Grantor of the property which will be charged on the settlement date. After the six month period has expired the Grantor will from that day keep the land in a neat and tidy condition and will prevent long grass and weeds growing thereon. The Developer may after the six month period has expired in order to preserve the overall appearance of the subdivision continue to mow the land on behalf of the Grantor in which event the Developer may enter upon the land for such purpose from the date thereof until the Grantor commences construction of a dwelling house on the land and the cost of so doing shall be paid by the Grantor at a rate of \$80.00 for each mow of the land. The Grantor shall not be responsible for any damage to any structure or object or deterioration occasioned to the land as a result of the reasonable exercise by the Developer or its powers under this clause.
7. Acknowledging that the value of the area of the subdivision will be affected by the standard of buildings erected on the property and by failure to comply with the covenants contained in the preceding clauses and sub-clauses, the Grantor covenants for the Grantor personally and their executors, administrators and assigns that should the Grantor fail to comply with, observe, perform or complete any of the covenants and restrictions contained in clause 1 - 6 without prejudice to any other liability the Grantor may have to the Developer including the registered proprietors of any lots in the Developers subdivision plan the Grantor will:
 - (a) Pay the Developer as liquidated damages the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) or a sum equal to 25 per centum of the cost of the erection of the dwelling house, whichever sum is the larger immediately upon receipt of a written demand for payment from the Developer or the Developer's solicitors; and
 - (b) Shall permanently remove or cause to be permanently removed from the property any improvement or structure so erected or repaired or other cause of any breach or non-observance so erected or repaired or other cause of any breach or non-observance of the foregoing covenants.

PROVIDED

And it is further agreed and acknowledged that:

- (i) A Grantor shall only have any liability hereunder while the Grantor is a registered proprietor of the land;
- (ii) In any instance of default under clauses 2 to 6 the remedying of such default within one month of notice in writing requiring the removal of such cause of default and the payment by the defaulting party of all reasonable legal costs and other expenses incurred by the party enforcing the said covenant shall avoid the payment of the penal sum prescribed in clause 7 above provided that this waiver shall not apply in respect of any subsequent default of a similar nature.

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Insert instrument type

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Continue in additional Annexure Schedule, if required

- (iii) The rights and obligations of the Developer to enforce the terms of the rights and benefits conferred by the foregoing covenants and by this clause shall terminate 12 calendar months from the date on which it ceases to be a registered proprietor of any lot in its subdivisional plan and from that date the right to enforce the rights and benefits so conferred shall in accordance with normal legal principles vest in the registered proprietor of any lot on the said subdivision which obtain benefits from the said covenants.

8. Areas B, I – O on DP414581 are Building Restriction Land Covenant Areas, and are referred to in the Opus International Geotech completion letter report dated 22 August 2008 and Calibre Consulting letter dated 30 September 2015. Registered Proprietors of the affected lots need to comply with the requirements stipulated in the report and letter in relation to these areas.