

View Instrument Details



Instrument No 9293658.5
Status Registered
Date & Time Lodged 13 February 2013 12:24
Lodged By Stephenson, Mary
Instrument Type Easement Instrument



Affected Computer Registers Land District

591483	Canterbury
591484	Canterbury
591485	Canterbury
591486	Canterbury
591487	Canterbury
591488	Canterbury
591489	Canterbury
591490	Canterbury
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591500	Canterbury
591501	Canterbury
591502	Canterbury
591503	Canterbury
591504	Canterbury
591505	Canterbury
591506	Canterbury
591507	Canterbury
591508	Canterbury
591509	Canterbury
591510	Canterbury
591511	Canterbury
591512	Canterbury

Annexure Schedule: Contains 10 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 Charge Holder under Statutory Land Charge 8100732.1 has consented to this transaction and I hold that consent, or the Statutory Land Charge does not prevent registration

Signature

Signed by David Ian Fitchett as Grantor Representative on 13/02/2013 11:54 AM

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 David Ian Fitchett as Grantee Representative on 13/02/2013 11:54 AM

***** 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

V B PROPERTIES (2008) LIMITED

Grantee

V B PROPERTIES (2008) 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 Covenant	456882	Lots 1 to 30 inclusive (CT's 591483 to 591512 inclusive)	Lots 1 to 30 inclusive (CT's 591483 to 591512 inclusive)

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 _____]

ANNEXURE SCHEDULE 2

The Grantee covenants with the Grantor, the said V B Properties (2008) Limited, as set out in Schedule B herein and the covenants form part of this Instrument and the Grantee and the Grantor hereby request that such covenants be noted against Certificates of Title 591483 to 591512 inclusive (Canterbury Registry).

It is the Grantor's intention to create for the benefit of the registered proprietors of the dominant tenements in Schedule A the land covenants set out in Schedule B hereof **TO THE INTENT** that the land in Schedule A shall be bound by the stipulations and restrictions set out in Schedule B hereof.

The covenants in Schedule B shall be restrictive covenants running with each of the titles in Schedule A being stipulations and restrictions on the titles shown as servient tenements in Schedule A and being for the benefit of the titles shown as the dominant tenements in Schedule A.

SCHEDULE B

It is acknowledged that the land being developed is intended to be a modern, high quality and well designed subdivision to ensure a quality development that is in harmony with the unique surrounding environment. It is therefore desirable that supervision and control be exercised for the protection and in the interest of all registered proprietors of the land in relation to any development of the land. In recognition of these objects, at all times from the date of this Land Covenant the Registered Proprietor for the time being of any part of the land described in Schedule A hereto ("the Registered Proprietor") shall:-

1. Not erect or carry out any building, fencing (including live hedging) landscaping or any other structure on the land (this includes but is not limited to exterior finishes and excavation of foundations) unless the Grantor or its nominee has approved all plans and specifications including the site plan of the dwelling, fencing, external colour scheme, landscaping or any other structure prior to building commencing.
2. Submit two sets of all design plans for any dwelling or accessory building, letterbox, fence or other structure. The dwelling plans required are the elevations, floor plan and site plan and must detail exterior cladding and show Lot and D.P. number and include the name of the proposed builder. All design plans must be approved by the Grantor in writing prior to construction. The Design for any dwelling or accessory building or other structure shall be

submitted to the Grantor or its nominee at sketch plan stage so that approval for the design can be given prior to the commencement of working drawings. In exercising its discretion the Grantor or its nominee shall take into account the following matters:

- 2.1. The height and positioning of any dwelling, detached building or structure within the individual lot.
- 2.2. The external appearance of any built structure including any dwelling, detached building, structure or landscaping.
- 2.3. The impact of any proposal on adjacent properties and to the subdivision as a whole with particular reference to daylight, views and privacy.
- 2.4. All plans and elevations submitted are to comply with the Transitional and Proposed Waimakariri District Council Plan and with the terms of the Agreement for Sale and Purchase signed by the Purchaser.
3. Not erect any house or building of any kind utilising fibro-cement panels and/or second hand materials (apart from good quality used brick and slate, which shall be allowed). No relocatable or kitset dwelling or structures to be erected without specific written permission from the Grantor.
4. Not erect any dwelling or garage which has a roof pitch of less than 26 degrees. Flat and partial flat roof areas may be allowed at the discretion of the Grantor. Roof lines should not have one long continuous line. Preference will be for gables and architectural roof lines in lieu of multiple hip roofing.
5. Not erect any structure other than one new dwelling house with a minimum floor area, including garaging, of not less than:

185m² for sections 650m² and over

170m² for sections under 650m²

150m² for sections under 600m²
6. Not erect any separate garage, i.e., not attached to the house;
7. Ensure in the overall design approach that the dwelling plans have street appeal. Plans shall have on the exterior street front elevations, several or some architectural features such as a large window, feature chimney, boxed windows, or brick or plastered columns. Fencing between dwelling and side

boundaries to be of same or similar materials to dwelling not palings. The Grantor reserves the right to approve such plans that do not comply with the above if in the grantor's sole discretion such departure will not adversely effect on the subdivision or the environment.

8. Not construct, place or permit any caravan, hut, garage or shed or transportable home or other similar structure on the land for any kind of permanent or temporary residential use. Additionally, no boat, plant, caravan or vehicle of any unsightly nature is to be allowed or suffered to be brought onto or remain on the land and no boat building or other similar activity is to take place on the land unless such boat, caravan, vehicle or activity is adequately garaged or screened to prevent viewing from the street frontage or from adjoining Lots and nor shall any such item be located on the road adjacent to the property. Not use any part of the land as a junkyard, metal or scrap metal yard.
9. Not permit 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 on the land, or permit grass and/or weeds to grow to a height exceeding 150mm. Appropriate rubbish skips shall be maintained within the site for all site rubbish and shall be cleared at regular intervals. At no time shall rubbish be permitted to blow outside of the building site or be permitted to cause an unsightly mess. All rubbish skips must be covered each night to ensure that rubbish is not blown out by high winds.
10. Maintain the land to a high standard and regularly mow both the land and any road berm fronting the land and trim any boundary weeds or long grass including maintenance of any gardens that maybe planted fronting the land.
11. Not permit a dwelling to be occupied until a Code of Compliance Certificate has been issued by the Waimakariri District Council and all driveways, pathways, letterbox and fences to the land boundaries are completed. All unpaved areas are to be properly grassed or landscaped within three (3) months of the date of occupation of the dwelling.
12. Not leave the outside of any dwelling house unfinished or any exterior walls or doors unpainted or unstained except where cedar cladding or decorative brick/stone are used.
13. Ensure that any buildings being built on the land have been fully completed within 18 months of the date that construction of the building commenced and no building under construction shall be left without substantial work being carried out for a period exceeding three months.

14. Not register any caveat against any of the Certificates of Titles owned by the Grantor which are included in whole or part of the land being subdivided.
15. Not permit the erection of any sign on the land or adjacent road reserve other than a professionally written and installed sign marketing the dwelling for sale. Signs marketing the section only are not permitted. The erection of signage indicating a business will only be permitted by the Grantor if such signage is acceptable in the sole discretion of the Grantor and prior written consent is obtained. The Grantor shall have the right to remove any sign, which in its sole discretion is unacceptable, without prior warning. The within clause shall not be applicable to any land the Grantor owns in the subdivision.
16. Accept the decision of the Grantor or its nominee in any situation where the Grantor's approval or consent is required and acknowledge that the Grantor may grant or decline such approval or consent at the sole discretion of the Grantor or may grant approval or consent on such terms and conditions as the Grantor requires.
17. Accept that the Grantor reserves the right to reasonably alter or amend the land covenants prior to registration.
18. Not breach any of the terms of the Waimakariri District Council or Environment Canterbury subdivision consent for the land.
19. Not make any submission or objection to the Waimakariri District Council or any other relevant authority against any application made by the Grantor in respect of resource consent applications of whatever nature whatsoever for further subdivision or redevelopment of the balance property currently known as Lot 3 on Deposited Plan 9926 and contained in Certificate of Title CB431/37.
20. Not allow contractors and subcontractors to commence work on the land without first informing them of the restrictions created by these covenants and ensuring their compliance therewith and in particular before commencing any work on the land the builder shall
 - 20.1. Construct all boundary fences and create a temporary footpath and berm crossing by cutting out kerb and crossing area and providing hard base material compacted in a manner that shall ensure a tidy crossing during construction. This access point referred to herein as the "designated access" is the only permitted access to the land.
 - 20.2. Ensure that if a kerb and crossing have already been installed it shall be the designated access and must be protected by laying down a protective layer of sand followed by a layer of base course material to

- a thickness that will ensure no damage occurs to the under laying crossing and footpath. In the event of any damage occurring, full replacement and reinstatement will be required.
- 20.3. At the completion of the building and during the landscaping and laying of paths the builder shall reinstate the new footpath and berm crossing.
 - 20.4. Ensure all builders' site sheds shall be placed within the building lot. No unloading of materials is permitted onto the footpath or berm areas or neighbouring lots, walkways, road or reserve. If any such damage to such adjoining land, road, curbing footpath or berms or landscaped or planted areas or enhancement or architectural feature the registered proprietor will, without demand, immediately (time being strictly or the essence) at the cost of the registered proprietor, repair and reinstate.
 - 20.5. Not, prior to settlement, build, erect or place on the land any buildings or fence without the prior consent of the Grantor. When the Grantor exercises discretion it may also take into account its own assessment of the effects of any land, buildings and visual concept or integrated appearance of all or any lots in the subdivision. Without limiting its discretion the Grantor may refuse to approve some landscape designs, fencing and plants of which in its sole opinion have a shade or other detrimental negative effect on other lots in the subdivision now or at a later date.
21. Not remove any fencing and/or landscaping provided by the Grantor and shall maintain such fencing and/or landscaping as is contained either within or immediately adjacent to the land.
 22. Not alter the fencing where such fencing has been approved.
 23. Be bound by a Fencing Covenant within the meaning of Section 2 of the Fencing Act 1978.
 24. Not call upon the Grantor to pay for or contribute towards the expense of construction or maintenance of any fence between the Lot and any contiguous land of the Grantor PROVIDED HOWEVER that this covenant shall not endure the benefit of any subsequent owner of the contiguous Lot

25. Not erect or permit to be erected on the land any fence or boundary wall:
- 25.1. Within 2.0 metres of the legal road boundary except on Lots which have frontage to two Public Roads where fencing on the secondary road frontage may be permitted on the boundary. **PROVIDED HOWEVER** that Lots 1 to 13 inclusive on Deposited Plan 456882 shall be exempt from this 2.0 metre legal road boundary rule. All Street front fencing shall be of similar materials to the dwelling and may include 'piers' with infill timber panels. All road frontage, Right of Way frontage, and boundaries fronting a public reserve or waterway fences must be painted or stained. Approval of fence design may be declined at the Grantor's sole discretion if the planned fencing is seen to potentially cause detriment to the subdivision. On boundaries fronting a public reserve or waterway preference shall be given to some open style fencing on the reserve boundary;
- 25.2. On the internal boundaries (being boundaries not fronting a road or right of way) of a height greater than 2.0 metres above the finished ground level or of materials other than new timber. All internal boundary fences shall be constructed in the form of a Paling Fence and timber capping.
26. Comply with the following fencing restrictions:
- 26.1. The northern boundary of Lot 23 and the southern boundary of Lot 22 from the street to the main body of the Lots shall either be left unfenced, or fenced with a post and chain fence at no higher than 1.0 metre. The balance of the northern boundary fence of Lot 23 and the southern boundary fence of Lot 22 shall be constructed in accordance with clause 25.1
27. Not plant or permit to grow any live hedge greater than 1.8 metres in height or plant *Pinus Radiata* or *Cedrus Macrocarpa* trees.
28. Acknowledge that all approvals and/or consents required from the Grantor shall be given or refused in the sole absolute and unfettered discretion of the Grantor subject to the Grantor reserving its right to approve requests for one party without creating any form of precedent to another party. Further the Grantor may refuse an identical request from another party without having to give reasons.
29. Not allow or cause any breach or non-observance of any of the foregoing covenants (and without prejudice to any other remedies available at law to the Grantor or to any other liability which the Registered Proprietor may have to

any person having the benefit of this covenant) and the Registered Proprietor will on written demand being made by the Grantor or any of the Registered Proprietors of the lots described in Schedule A herein:-

- 29.1. Pay to the person making such demand the sum of \$100.00 per day in total (as liquidated damages) for every day that such breach or non-observance continues after the date on which written demand has been made; and
- 29.2. Remove or cause to be removed from the land any improvements on the land which have been erected or placed on the land in breach or non-observance of any of the forgoing covenants.

FURTHER TERMS

- A. The Grantor shall not be liable for any breaches of the covenants herein contained in respect to any lot after it has sold and transferred title to such lot.
- B. If any dispute shall arise in relation to the provisions of the covenants such dispute shall be referred to arbitration in accordance with the Arbitration Act 1996 or its amendments or any Act in substitution therefore.
- C. The abovementioned restrictions shall apply for the benefit of Lots 1-30 of Stage A of the subdivision. Any person having the benefit of these covenants shall be entitled in the event of any default, breach or non-observance of any one or more of them at the cost of the party committing the breach in all things and without having to establish that any loss has been or will be suffered to either an immediate injunction prohibiting such use or an order that such breach be remedied forthwith notwithstanding that such an order may necessitate the demolition either in whole or in part or removal of any structure/building or the closure of any business. Notwithstanding this provision V B Properties 2008 Limited shall not be liable hereunder.
- D. VB Properties (2008) Limited shall not be required or obliged to enforce all or any of the covenants, stipulations and restrictions contained in this instrument nor be liable to the Registered Proprietor for any breach thereof by any of the Registered Proprietors from time to time of the other lots that comprise the subdivision.
- E. The Registered Proprietor covenants that the Registered Proprietor will at all times save harmless and keep indemnified VB Properties (2008) Limited from all proceedings, costs, claims and demands in respect of breaches by the Registered Proprietor of any of the stipulations, restrictions and covenants contained in the preceding clauses.

- F. If the Registered Proprietor breaches any of these covenants causing damage the Restricted Proprietor will without demand, immediately (time being strictly of the essence) at the cost of the Registered Proprietor, repair and reinstate any such damage and if the Registered Proprietor fails to rectify any such damage to the satisfaction of the Grantor or acting reasonably then the Grantor or its nominee may carry out such rectification works at the cost of the Registered Proprietor. Any money so expended by the Grantor which is not paid by the Registered Proprietor to the Grantor within five working days of written demand by the Grantor to the Registered Proprietor will incur interest at the rate of 12% per annum (calculated on a daily basis) until paid in full.
- G. The foregoing covenants shall cease to have any force and effect on 1 January 2023. Such cessation shall be without prejudice to any rights accruing for any antecedent breach of the covenants.