

View Instrument Details



Instrument No 9193871.7
Status Registered
Date & Time Lodged 26 September 2012 17:54
Lodged By Holden, Sian Rhiannon
Instrument Type Easement Instrument



Affected Computer Registers Land District

584164	Nelson
584165	Nelson
584166	Nelson
584167	Nelson
584168	Nelson
584169	Nelson
584170	Nelson
584171	Nelson
584172	Nelson
584173	Nelson
584174	Nelson
584175	Nelson
584176	Nelson
584177	Nelson
584178	Nelson
584179	Nelson
584180	Nelson
584181	Nelson

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 ☒

Signature

Signed by Sian Rhiannon Holden as Grantor Representative on 26/09/2012 05:51 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 ☒

Grantee Certifications

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 Sian Rhiannon Holden as Grantee Representative on 26/09/2012 05:51 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)

2009/6229EF
APPROVED
Registrar-General of Land

Grantor

WAHANGA LIMITED

Grantee

WAHANGA 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) DP 454691	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross DP 454691
As set out in Annexure Schedule		Lot 3 DP 454691 (CT 584164)	Lots 4-9 (CTs 584165 - 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 - 584181)
		Lot 4 DP 454691 (CT 584165)	Lot 3 (CT 454691), Lots 5-9 (CTs 584166 - 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 - 584181)
		Lot 5 DP 454691 (CT 584166)	Lots 3 & 4 (CTs 584164 and 584165), Lots 6-9 (CTs 584167 - 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 - 584181)
		Lot 6 DP 454691 (CT 584167)	Lots 3-5 (CTs 584164 - 584166), Lots 7-9 (CTs 584168 - 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 - 584181)
		Lot 7 DP 454691 (CT 584168)	Lots 3-6 (CTs 584164 - 584167), Lots 8 & 9 (CTs 584169 & 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 - 584181)

Schedule A (continued)

Purpose (Nature and extent) of covenant	Shown (plan reference) DP 454691	Servient Tenement (Computer Register) DP 454691	Dominant Tenement (Computer Register) or in gross
As set out in Annexure Schedule		Lot 8 DP 454691 (CT 584169)	Lots 3-7 (CTs 584164 – 584168), Lot 9 (CT 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 – 584181)
		Lot 9 DP 454691 (CT 584170)	Lots 3-8 (CTs 584164 – 584169), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 – 584181)
		Lot 13 DP 454691 (CT 584171)	Lots 3-9 (CTs 584164 – 584170), Lot 33 (CT 584172) and Lots 50-58 (CTs 584173 – 584181)
		Lot 33 DP 454691 (CT 584172)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171) and Lots 50-58 (CTs 584173 – 584181)
		Lot 50 DP 454691 (CT 584173)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172) and Lots 51-58 (CTs 584174 – 584181)
		Lot 51 DP 454691 (CT 584174)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50 (CT 584173) and Lots 52-58 (CTs 584175 – 584181)
		Lot 52 DP 454691 (CT 584175)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50 & 51 (CTs 584173 & 584174) and Lots 53-58 (CTs 584176 – 584181)

		Lot 53 DP 454691 (CT 584176)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50-52 (CTs 584173 - 584175) and Lots 54-58 (CTs 584177 – 584181)
		Lot 54 DP 454691 (CT 584177)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50-53 (CTs 584173 - 584176) and Lots 55-58 (CTs 584178 – 584181)
		Lot 55 DP 454691 (CT 584178)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50-54 (CTs 584173 - 584177) and Lots 56-58 (CTs 584179 – 584181)
		Lot 56 DP 454691 (CT 584179)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50-55 (CTs 584173 - 584178) and Lots 57 & 58 (CTs 584180 & 584181)
		Lot 57 DP 454691 (CT 584180)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50-56 (CTs 584173 - 584179) and Lot 58 (CT 584181)
		Lot 58 DP 454691 (CT 584181)	Lots 3-9 (CTs 584164 – 584170), Lot 13 (CT 584171), Lot 33 (CT 584172), Lot 50-56 (CTs 584173 - 584179) and Lot 57 (CT 584180)

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~~ ~~negated~~ ~~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 _____]

RESTRICTIVE COVENANTS

Building:

1. The Grantor shall not construct, erect or place or permit to be constructed, erected or placed on the relevant Servient Tenement ("the Property"):
 - a. Any building, structure or improvements without first obtaining the written approval of Wahanga Limited ("Wahanga") (or its 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.
 - b. Wahanga's approval shall be entirely at Wahanga's discretion in all respects provided however that should Wahanga (or its nominated representative) fail to approve or disapprove such plans and specifications within 20 working days of receipt of the same, then it shall be deemed to have approved the same. The Grantor shall not apply for a building consent until such time as Wahanga's approval, whether deemed or otherwise, has been obtained.
 - c. Wahanga 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 Wahanga in accordance with this clause.
 - d. The obligation to obtain the approval of Wahanga (or its nominated representative) pursuant to this clause shall expire ten (10) years after the date of registration of the transfer of the Property by Wahanga to the Grantor, but shall not release the Grantor from its obligations to comply with these covenants.
2. Any building structure or improvements which, in the opinion of Wahanga (or its nominated representative), do not comply with the requirement under the Land Use Resource Consent RM030708V1 for the materials, landscaping and colour to have regard to the amenity and natural character of the locality, including effects on:-
 - a. Natural features;
 - b. Landscape and seascape values;
 - c. Significant natural values;
 - d. The nature of any existing development.
3. Any building with a floor level of less than three (3) meters above mean sea level.
4. Any building within thirty (30) meters of mean high water springs.
5. More than one single residential dwelling and other building improvement associated with a single residential dwelling.

6. Any dwelling, building or structure of an A-frame style or construction.
7. Any dwelling, building or structure using pole foundations.
8. Any dwelling that is a single rectangle or does not contain at least one roof break or full valley.
9. Any relocated, transportable, kit-set or used dwelling, building or structure provided that:
 - a. One prefabricated (but not pre-used) garden shed which is adequately screened from neighbouring properties may be placed on the Property; and
 - b. Builders sheds or other similar buildings required during construction of any dwelling may be placed on the Property during such construction, but must be removed on completion of such construction.
10. Any dwelling, building or other structure with an external wall cladding of:
 - a. galvanised iron, zincalume or metallic cladding material unless such cladding material has a proprietary coating system and the area of which does not exceed 20% of the total area of the external walls of the dwelling, building or other structure; or
 - b. any sheet material (e.g. fibre cement sheet, Hardiplank or other Hardie sheet or Hardie cladding product) unless such material has a proprietary finishing system applied or is properly sealed and painted, and the area of which does not exceed 20% of the total area of the external walls of the dwelling, building or other structure; or
 - c. any PVC, plastic or materials coated in PVC or plastic; or
 - d. any pre-used building materials; or
 - e. any board and batten or plywood; or
 - f. any other building material which in the opinion of Wahanga (or its nominated representative) detracts from the good quality of the subdivision and the local housing standard.
11. A dwelling, building or other structure with a roof cladding of preformed rolled steel, whether unpainted or painted, provided that Coloursteel products or products of a similar construction painted or coated in manufacture shall not be in breach of this restriction. Any fence constructed of galvanised iron or unpainted corrugated iron, any used material, or any other material or in a style which detracts from the good quality of the subdivision and the local neighbourhood standard.
12. Any boundary fence encompassing the front yard of any Property including any road boundary fence exceeding a height of 1.2m above ground level.
13. Any building that has windows, doors or sky-lights so placed that the privacy of any neighbouring dwelling is unreasonably affected.
14. Any outbuildings other than outbuildings of a style similar to the dwelling erected or to be erected on the Property.

15. Any dwelling that does not include an attached fully enclosed garage, such garage to be constructed and completed at the same time as the construction and completion of the dwelling and to be constructed and completed in similar materials to that of the dwelling.
16. Any building that:-
 - a. Exceeds a height of six (6) metres above the ground level if further than 100m from mean high water springs;
 - b. exceeds a height of five (5) meters above the ground level if any part of it is less than 100m from mean high water springs.

For the purposes of this clause the height shall be measured between the highest point of the building and the ground level immediately below that point and the ground level shall be the level existing as at the date of the transfer of the Property from Wahanga.
17. The Grantor shall complete construction of any building, structure or improvement on the Property within 12 months of commencing work on any such building, structure or improvement and the Grantor shall not allow:
 - a. a period of more than three (3) months to elapse without substantial work being carried out once such work has commenced;
 - b. in the case of a dwelling, the dwelling to not be fully clad and roofed by the date that is five (5) months from the date the foundations for that dwelling are laid.
18. The Grantor shall not reconstruct, alter, add to, renovate or refurbish any building, structure or other improvement on the property 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 subdivision or being in breach of these covenants.
19. The Grantor shall not allow any masts, aerials, other structures, trees or shrubs to exceed a height of seven (7) metres above the average ground level of the Property or six (6) metres above the height of the Property at any particular point.

Maintenance:

20. The Grantor shall not:
 - a. Allow any building or structure on the Property to become dilapidated or to fall into disrepair and shall not allow any nuisance or unreasonable disturbance to be caused to any owner or occupier of neighbouring properties.
 - b. Move, damage or remove any survey pegs or markers on the Property 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. Allow the property to become littered, overgrown or unsightly to the intent that the Property shall be maintained in a neat and tidy condition (including not allowing grass to grow to a height greater than 100 millimetres), nor allow any noxious weeds (including gorse, blackberry or ragwort) to grow on the Property.
- d. Except when building operations are in progress, 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 Property 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 subdivision.

Activity/Use of Property:

- 21. The Grantor shall not occupy nor allow any dwelling constructed on the Property to be occupied until the dwelling has been completed in accordance with the requirements of the local authority nor will the Grantor 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.
- 22. The Grantor shall not store, or allow to be stored, any caravan, motor home, craft, trailer, recreational vehicle, trade vehicle or other equipment or machinery in front of the dwelling or within five (5) metres of the Property boundary or any road, unless the same is garaged or adequately screened so as to preserve the amenities and standard of the subdivision. Short-term parking by visitors and trade people of vehicles in daily use will not be in breach of this provision.
- 23. The Grantor shall not permit any caravan to be kept on the Property for temporary accommodation.
- 24. The Grantor shall not allow any livestock, animals or beehives to be brought onto or kept on the Property other than normal household domestic pets (and the term "household domestic pets" does not include 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 subdivision) and in particular, the Grantor shall not keep or allow to be kept on the Property any dog which is generally recognised as being an aggressive breed and which may cause a risk to owners or occupiers of other properties in the subdivision (e.g. Pit-bull terrier, Rottweiler and Doberman Pincher).
- 25. The Grantor shall not (without the prior written approval of Wahanga which may be approved or withheld at its discretion) carry out nor permit to be carried out on the Property any activity other than the use of the Property for a single domestic residential dwelling nor any other activity which does not comply with the Tasman District Council permitted activities in a Residential Zone provided however that this clause shall not apply to the use of the property for the purposes of a builders show home (and ancillary builders office) for a period of no more than two years from the date of completion of such show home.

26. The Grantor shall not use or permit the use of the property for institutional residential purposes or as a hostel, lodge or boarding house. For the purposes of this clause "institutional residential purposes" shall include but not be limited to the use of the property for housing purposes by central or local government agencies or public or private health centre agencies, public or private retirement care providers or public or private educational providers.
27. The Grantor shall not for a period of ten (10) years from the date of transfer of the property by the Vendor subdivide the Property and the term "subdivide" shall have the same meaning as "subdivision of land" defined in Section 218 of the Resource Management Act 1991.

General:

28. 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.
29. Wahanga will not be liable because of any action it takes or fails to take or for any default in any building, structure or improvement erected on any of the properties in the subdivision or for any breach of these covenants or otherwise and the registered proprietors for the time being of the servient and dominant lots shall indemnify and keep indemnified Wahanga and its legal successors (other than successors in title after registration of a transfer from Wahanga to a subsequent owner) from any costs, claims, suits, demands or liabilities arising out of or under these covenants.
30. The beneficiaries of the foregoing covenants shall have the power to require:
 - a. any person breaching the covenant to pay liquidated damages of \$100.00 for each day that a breach or non-observance continues to the person making the demand from the date written demand is made;
 - b. the removal of any pre-used dwelling, building or other structure constructed or placed on the Property in breach of the non-observance in the restrictive covenants; and/or

- c. the replacement of any building materials used or permitted to be used in breach or non-observance of the restrictive covenants.
- 31. If any of the restrictions contained in these Restrictive Covenants shall be deemed to be unenforceable or void for any reason, then that particular provision shall be deemed to be deleted from the terms of these Restrictive Covenants to the intent that the balance of the covenants will remain unaffected and enforceable.

Fencing:

- 32. Wahanga shall not be liable to erect or maintain or contribute towards the costs of any dividing fence or boundary fence or part thereof between the Property and any adjoining land, but this provision shall not inure for the benefit of any Grantor of such adjoining land.