

View Instrument Details



Instrument No 10765074.12
Status Registered
Date & Time Lodged 11 September 2017 10:23
Lodged By Fitchett, Dominic Inglis William
Instrument Type Easement Instrument



Affected Computer Registers Land District

778690	Canterbury
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Annexure Schedule: Contains 9 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 ☒

Grantor 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 Dominic Inglis William Fitchett as Grantor Representative on 07/09/2017 10:57 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 Dominic Inglis William Fitchett as Grantee Representative on 07/09/2017 10:57 AM

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

Easement instrument to grant easement or *profit à prendre*, or create land covenant
(Sections 90A and 90F Land Transfer Act 1952)

2015/6246
APPROVED
Registrar-General of Land

Page 1 of 9 pages

Grantor

CDL LAND NEW ZEALAND LIMITED

Grantee

CDL LAND NEW ZEALAND 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 Covenants	DP 509330	Lots 493-509, 560-605, 639, 640, 653, 677, 760-766 on DP 509330 (CFR's 778690-778740, 778743-778757, 778759-778766)	Lots 493-509, 560-605, 639, 640, 653, 677, 760-766 on DP 509330 (CFR's 778690-778740, 778743-778757, 778759-778766)

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 required; 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

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Insert instrument type

Easement instrument to create land covenant

*Continue in additional Annexure Schedule, if required***Scope and definitions**

- 1 The Grantor hereby covenants and agrees with the Grantee in the manner set out below so that such covenants shall:
 - (a) Burden and run with each of the Servient Tenements referred to in Schedule A; and
 - (b) Be for the benefit of and appurtenant to each of the Dominant Tenements referred to in Schedule A.
- 2 For the purposes of this instrument the following terms have the following meaning (unless the context otherwise requires):
 - (a) **"corner section"** means Land which (in the reasonable opinion of the Developer) has two legal road frontages;
 - (b) the **"continuous length"** of a fence includes:
 - (i) any attached fence return within two metres of the road boundary; and
 - (ii) any gate attached to the fence;
 - (c) **"DB Developer"** means a registered proprietor of a DB Lot which has not been Subdivided since the Developer ceased to be the registered proprietor of the DB Lot. By way of explanation, usually the DB Developer will have purchased from the Developer, with the intention of building a comprehensive residential development, subdividing, and selling the Subdivided parts. The Developer cannot be a DB Developer;
 - (d) **"DB Lot"** means a development block;
 - (e) **"Density B Lot"** means each of the Lots 493-509, 560-600, 639, 640 and 760-766 on Deposited Plan 509330;
 - (f) **"Developer"** means CDL Land New Zealand Limited or its nominee, or if CDL Land New Zealand Limited ceases to exist and there is no nominee, means any director of CDL Land New Zealand Limited immediately before that company ceased to exist;
 - (g) **"fence"** includes a wall; and
 - (h) **"Land"** means each of the Servient Tenements described in Schedule A.
 - (i) **"Subdivide"** means subdivide or subdivided within the meaning of the Resource Management Act 1991 or any modification, amendment or re-enactment of it.

Annexure Schedule 1

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Insert instrument type

Easement instrument to create land covenant

*Continue in additional Annexure Schedule, if required***Restrictions on development and use of the Land**

3 The Grantor shall, in relation to any Land owned by the Grantor:

Dwelling size and garaging

- (a) Not erect or permit to be erected on the Land any dwelling unless both of the following apply:
 - (i) the dwelling has fully integrated garaging with (at least) a double garage;
 - and
 - (ii) the dwelling has a floor area (including the floor area of the fully integrated garage, and taken over the foundation) of more than:
 - (A) 150m² for all Density B Lots;
 - (B) 175m² for all Land of a size between 600 m² – 650 m² (inclusive);
 - (C) 220m² for all Land of a size 800 m² or bigger.

Dwelling construction

- (b) Ensure that the perimeter (on a horizontal plane) of the roof of any dwelling on the Land shall not form a rectangle unless the roof contains at least one roof break or full valley.
- (c) Ensure any dwelling on the Land has at least 80% of its non-glazed exterior cladding in any one or more of the following materials:
 - (i) Kiln fired or concrete brick;
 - (ii) Stucco textured finish;
 - (iii) Stone;
 - (iv) Timber weather boards;
 - (v) Linea weather boards;
 - (vi) Metal laminate on timber;
 - (vii) Any other exterior cladding material for which the Grantor has obtained the Developer's written consent.
- (d) Not use metal clad roofing that has not been pre-painted, nor use copper or unpainted metal roof material, gutters, downpipes or external cladding.

Annexure Schedule 1

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Insert instrument type

Easement instrument to create land covenant

*Continue in additional Annexure Schedule, if required**Restrictions on certain improvements*

- (e) Without limiting any other covenant, not permit a building to be erected on the Land other than:
 - (i) a new dwelling (with a fully integrated garage);
 - (ii) a building normally appurtenant to a residential dwelling, provided that any walls of the building visible from the road frontage of the Land are of the same material as the walls of the dwelling.
- (f) Not erect or permit to be erected or placed on the Land any carport unless attached and fully integrated into the roofline of the dwelling or garage and screened from view from the road by fencing or landscaping approved by the Developer.
- (g) Not erect or permit to be erected a multi-storey dwelling house on the Land, unless the Grantor's Land is any of Lots 503, 561-576 (inclusive), 583, 595, 600, 760, 763 or 764 on Deposited Plan 509330.

Design approval

- (h) Not do any work or permit any work for the erection of buildings, accessory buildings, landscaping, fences, driveways, or other improvements (and this shall also include exterior finishes and excavation of foundations upon the Land) unless plans and specifications and all other details of construction, finish and location as the Developer at the Developer's absolute discretion may require, have first been submitted to the Developer and have received the Developer's written approval.

Restriction on subdivision

- (i) For Land in a title containing greater than 400m², not Subdivide the Land nor amalgamate the title to the Land with another title.

Fencing and fencing contributions

- (j) Without prejudice to clause 3(h), not erect or permit to be erected on the Land a fence:
 - (i) Which is made out of corrugated iron or post and wire; or
 - (ii) Which does not comply with Christchurch City Council requirements (such as, for example, rule 10.2.5(b)(iv) in the District Plan) unless authorised by a resource consent; or
 - (iii) Which, if it is a fence between the Land and an adjoining reserve, is less than 80% open if it is more than 1.2 metres in height above the natural ground level; or

Annexure Schedule 1

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Insert instrument type

Easement instrument to create land covenant

Continue in additional Annexure Schedule, if required

- (iv) Which is higher than 1.8 metres above natural ground level, at any point (subject to clauses 3(j)(ii) & (iii)); or
- (v) Which is made of materials which (in the Developer's opinion) are not harmonious with the materials used in the dwelling on the Grantor's Land.
- (k) Not call upon Christchurch City Council to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the Land and any adjoining reserve or other land owned by Christchurch City Council.
- (l) Not call upon the Developer to pay for or contribute towards the cost of erection or maintenance of any boundary fence between the Land and any adjoining Land owned by the Developer, provided that this covenant will not endure for the benefit of any subsequent registered proprietor of any such adjoining Land. This clause 3(l) overrides clause 3(m).
- (m) Pay 50% of the reasonable cost of a Qualifying Fence to any neighbour that erected the Qualifying Fence, if that neighbour has not previously received a contribution towards the cost of the Qualifying Fence in accordance with this clause 3(m). A "**Qualifying Fence**" means a fence on a shared boundary between the Grantor's Land and adjoining Land owned by the neighbour. However this clause does not benefit the Developer or need to be complied with by the Developer.
- (n) If the Land is adjoining a reserve, maintain the fence between the Land and the adjoining reserve and if such fence is wholly or partly destroyed, replace with a new fence that complies with clause 3(j) and has Christchurch City Council approval.

Building timeframes and crossings

- (o) Ensure that:
 - (i) any building, driveway and landscaping is completed within nine months of laying down the foundations for such building and no building once under construction shall be left without substantial work being carried out for a period exceeding three months;
 - (ii) entry and exit to and from the Land during building is via a single entry/exit point on the Land boundary, of a maximum 4 metre width, which must be notified to and approved by the Developer as part of the approval required under clause 3(h);
 - (iii) any other requirements for the construction phase which form part of the Developer's approval under clause 3(h) are complied with by the Grantor.

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Easement instrument to create land covenant

Continue in additional Annexure Schedule, if required

Tidy appearance

- (p) Not permit a temporary building or structure to be erected on the Land except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Land upon completion of the work.
- (q) Keep the Land in a neat and tidy condition and shall not permit excessive growth of grass (beyond 100mm in length).
- (r) Maintain all road reserves adjoining the Land in a neat and tidy condition and immediately repair (to the satisfaction of the Developer) any damage to the footpath and berms adjoining the Land caused by the Grantor or its contractors, employees, agents and invitees.
- (s) Not cut, trim, damage, remove or relocate any tree, shrub or plant on the road reserve without the prior approval of the Developer and the Christchurch City Council.

Monitoring

- (t) Not prevent the Developer, its officers, employees or agents from entering onto the Land at all reasonable times for the purposes of ensuring compliance with the foregoing covenants and remedying any breaches thereof subject to the Developer first giving at least 48 hours' prior written notice of its intention to enter on to the Land. If the Developer enters on to the Land it shall not be responsible for any damage occasioned to the Land or anything placed thereon as a result of a reasonable exercise by the Developer of its powers.

Aerials etc

- (u) Not install or attach any accessory (including but not limited to satellite dishes, television aerials, and solar panels) on the Land, unless they are constructed in such a way as to be discreetly integrated with the design of buildings on the Land so that they are not highly visible from any road, thoroughfare or any other Land.
- (v) Fully encase any chimney in materials and in a manner approved by the Developer in writing.

No interference with DB Developers

- (w) Not at any time oppose, obstruct or object in any way, or provide support in any form to any person in opposition to, any planning proposal by any DB Developer in respect of the subdivision and sale of a DB Lot owned by the DB Developer;
- (x) Not make, lodge, be party to or finance any request, complaint, submission, application, appeal or other proceeding which is designed, intended or likely to limit, prohibit or restrict the completion (in accordance with these covenants) of the subdivision and sale of a DB Lot owned by any DB Developer;

Annexure Schedule 1

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Insert instrument type

Easement instrument to create land covenant

Continue in additional Annexure Schedule, if required

- (y) Not bring any proceedings in any Court or tribunal for damages, negligence, nuisance, trespass or interference or otherwise arising as a result of the completion of the subdivision and sale of a DB Lot owned by any DB Developer;
- (z) If required, on request by a DB Developer, provide affected party approval to any planning application referred to in clause 3(w) in accordance with the provisions of section 95D(e) Resource Management Act 1991;

No interference with development of Prestons Park subdivision

- (aa) Clauses 3(w) to 3(z) inclusive will also apply (with all necessary modifications) to the development, subdivision and sale by the Developer of any land owned by the Developer within the Prestons Park subdivision.

Nuisance

- (ab) Not allow any animal to be kept on or about the Land which is likely to cause a nuisance or annoyance to occupiers of other Land, and in particular without otherwise limiting this restriction, not to keep on or about the Land any dog which in whole or part appears to be a Pit Bull Terrier, Rottweiler or Doberman Pinscher.
- (ac) Not use the Land in any way which in the reasonable opinion of the Developer detrimentally affects the amenities of the neighbourhood including permitting noise to escape from the Land which is likely to cause offense or a nuisance to occupiers of other Land.

Show Home

- (ad) Except where (and for so long as) clause 4 applies, not allow any building on the Land to be used as a show home without the written consent of the Developer (such consent to be at the Developer's absolute discretion and subject to such conditions as the Developer considers necessary). Any consent given by the Developer under this clause may be limited as to time.

- 4 If the Grantor is the registered proprietor of Land that is any of Lots 561-575 (inclusive) on Deposited Plan 509330, that Grantor shall, in relation to that Land, only use that Land (or allow it to be used) as a show home, for the period of 3 years from the date of registration of these covenants.

Enforcement

- 5 The Developer shall not be required or obligated to enforce all or any of the foregoing covenants, stipulations and restrictions, nor will the Developer be liable to any other party for any breach thereof by any Grantor.
- 6 If there should be any breach or non-observance of any of the foregoing covenants then without prejudice to any other liability which the Grantor may have to any Grantee, the Grantor will upon written demand being made by any Grantee:

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Insert instrument type

Easement instrument to create land covenant

Continue in additional Annexure Schedule, if required

- (a)

Pay to any Grantee making such demand as liquidated damages the sum of \$250.00 (Two Hundred and Fifty Dollars) per day for every day that such breach or non-observance continues after the date upon which written demand has been made, provided that if more than one person is making such demand then that sum shall be shared between those persons; and
- (b)

If applicable, remove or cause to be removed from the Grantor's Land any second hand or used dwelling, garage, carport, building or other structure erected or placed on the Grantor's Land in breach or non-observance of the foregoing covenants; and
- (c)

If applicable, replace any building materials used or permitted to be used in breach or non-observance of the foregoing covenants.
- 7

The Grantor covenants that the Grantor will at all times indemnify the Grantee from all proceedings, costs, claims and demands in respect of breaches by the Grantor of any of the stipulations, restrictions and covenants in this instrument.
- General
- 8

Any requirement in this instrument to submit plans and specifications to the Developer, or to obtain the Developer's approval, will cease to apply 7 years after the date of this instrument (but without prejudice to the liability of any party for any breaches which have already occurred).
- 9

Without prejudice to clause 8, the covenants in this instrument will immediately cease to apply to any Land (or part thereof) which is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.
- 10

Subject to clause 3(k), but despite any other provision of this instrument, if the written consent of the Developer is obtained to any action or omission, that action or omission will be deemed to not constitute a breach of any covenant within this instrument.