

14 mnt 101
Approved by Registrar-General of Land under No. 2002/6055

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

EI 6656053.9 Easement

Cpy - 01/01, Pgs - 011, 21/11/05, 07:22

Land registration district

CANTERBURY



DocID: 211581850

Grantor

Surname(s) must be underlined or in CAPITALS.

V B PROPERTIES LIMITED

Grantee

Surname(s) must be underlined or in CAPITALS.

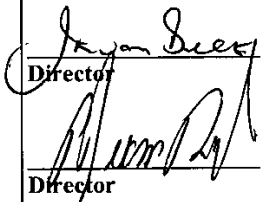
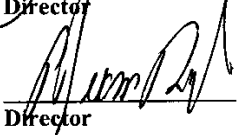
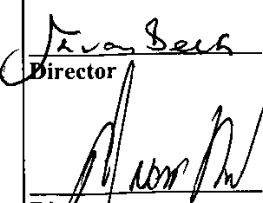
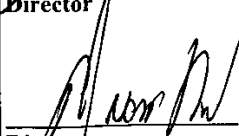
V B PROPERTIES LIMITED

Grant* of easement or profit à prendre or creation or covenant

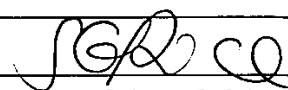
The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, **grants to the Grantee** (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, **or creates** the covenant(s) **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Dated this 2nd day of November 2005

Attestation

 Director  Director Signature [common seal] of Grantor	Signed in my presence by the Grantor
	Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed) Witness name
	Occupation
 Director  Director Signature [common seal] of Grantee	Signed in my presence by the Grantee
	Signature of witness
	Witness to complete in BLOCK letters (unless legibly printed) Witness name
	Occupation
	Address

Certified correct for the purposes of the Land Transfer Act 1952.


[Solicitor for] the Grantee

*If the consent of any person is required for the grant, the specified consent form must be used.

Annexure Schedule 1

Easement instrument

Dated 2nd November 2005Page 2 of 11 pages**Schedule A**

(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Land Covenant	DP 359861	243551, 243527 - 243542 (inclusive)	243551, 243527-243542 (inclusive)

**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 specific classes of ~~easement are those~~ prescribed by the Land Transfer Regulations 2002 and/or the ~~Ninth Schedule~~ of the Property Law Act 1952.

The implied rights and powers are ~~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 2].~~

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 2].~~

All signing parties and either their witnesses or solicitors must sign or initial in this box

Annexure Schedule

Insert type of instrument

"Mortgage", "Transfer", "Lease" etc

Easement Instrument

Dated **2nd November 2005** Page **3** of **11** pages

(Continue in additional Annexure Schedule, if required.)

ANNEXURE SCHEDULE 2

The Grantee covenants with the Grantor, the said V B Properties 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 243551 and 243527 to 243542 inclusive (Canterbury Registry).

It is the Grantor's intention to create for the benefit of the registered proprietors of the dominant land 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.

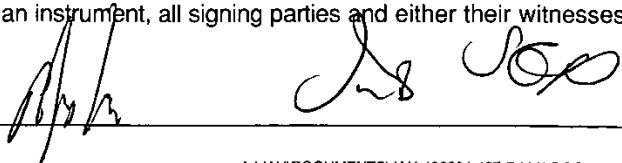
The covenants in Schedule B shall be restrictive covenants running with each of the titles in Schedule A being stipulations and restrictions on the titles shown as servient tenements in Schedule A and being for the benefit of the titles shown as the dominant tenements in Schedule A.

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 Instrument 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 siting of the dwelling, fence, landscaping or any other structure prior to building commencing.
2. Submit all design plans for any dwelling or accessory building, fence or other structure ("design plans") to the Grantor. All design plans must be approved 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:

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Annexure Schedule

Insert type of instrument

"Mortgage", "Transfer", "Lease" etc

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(Continue in additional Annexure Schedule, if required.)

- 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).
4. Where the section has an area of 690m² or less not erect any building on the property other than a single dwelling house capable of being used by one family unit which has a floor area of greater than 180m² including a garage of not less than 30m² (including in the calculation of the floor area any garage space, covered verandah or balcony).
5. Where the section has a greater area than 690m², not erect any building on the property other than a single dwelling house capable of being used by one family unit which has a floor area of greater than 210m² including a garage of not less than 30m² (including the calculation of the floor area any garage space, covered verandah or balcony).
6. Not erect any separate garage, ie, not attached to the house.
7. Not erect any dwelling or garage which has a roof pitch of less than 30 degrees. Flat and partial flat roof areas may be allowed at the discretion of the Grantor. Roof lines should have at least two breaks plus one valley.
8. Ensure that the dwelling plans shall have on the exterior street front elevations (several or some) architectural features such as large window, feature chimney, boxed windows, brick or plastered columns, fencing between dwelling and side boundary of same materials or similar to dwelling. (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).

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Annexure Schedule

Insert type of instrument

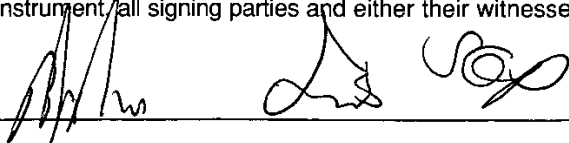
"Mortgage", "Transfer", "Lease" etc

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(Continue in additional Annexure Schedule, if required.)

9. Not erect or place or cause to be erected or placed on the land any relocated building or kitset dwelling or similar structure.
10. 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 land. The Registered Proprietor shall not, except where building operations are in progress, permit any trade vehicle, trade equipment or materials, debris or rubbish to be allowed or suffered to be brought on to or remain on the land. This restriction shall not apply to private motor vehicles, boats or horse floats for personal use of the Registered Proprietors or occupiers of any dwellinghouse and their tenants, invitees and agents which may be temporarily parked outside.
11. Not use any part of the land as a junk yard, metal or scrap metal yard.
12. 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.
13. Keep any free ranging animals and birds (excluding pet cats) within the boundary of the land and security fenced and not suffer any bird or animal to be kept in or about the land which dog or other pet is likely to cause a nuisance or annoyance to other neighbouring occupiers or detract from the subdivision.
14. Not build anything except a letterbox on the land within two metres of a road or reserve or walkway boundary and the Grantor further reserves the right to withhold approval of any plans for any buildings or ancillary buildings which are to be situated within three metres of the road or reserve or walkway boundary. The Registered Proprietor shall erect a new letterbox when the dwelling is erected and the design, colour and cladding of the letterbox shall be consistent with those of the dwelling and/or fence as approved by the Grantor.

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Annexure Schedule

Insert type of instrument

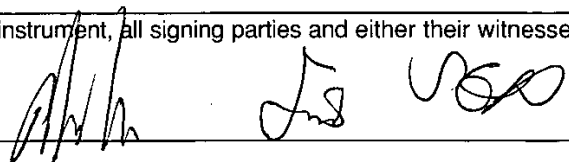
"Mortgage", "Transfer", "Lease" etc

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(Continue in additional Annexure Schedule, if required.)

15. Not permit the said land to be occupied or used as a residence either prior to the dwelling being completed (including driveways, pathways, letterbox, landscaping and seeding of lawns visible from the boundary frontage) and a Code Compliance Certificate being issued by the Waimakariri District Council or by the erection of temporary structures or by the placing thereon of caravans and/or vehicles used for human habitation.
16. Not leave the outside of any dwellinghouse unfinished or any exterior walls or doors unpainted or unstained except where cedar cladding or decorative brick/stone are used.
17. 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.
18. Not alter the fencing where such fencing has been approved.
19. Not permit the erection of any sign on the land other than a professionally written and installed sign marketing the dwelling or section for sale. 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.
20. 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.
21. 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.
22. Accept that the Grantor reserves the right to reasonably alter or amend the land covenants prior to registration.
23. Not breach any of the terms of the Waimakariri District Council or Environment Canterbury subdivision consent for the land.
24. 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 of the Grantor's property comprised in Certificate of Title CB44B/78.

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Annexure Schedule

Insert type of instrument

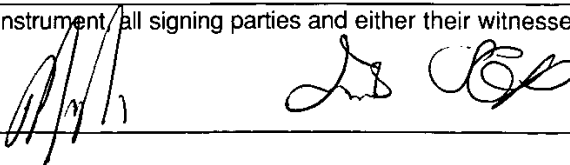
"Mortgage", "Transfer", "Lease" etc

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(Continue in additional Annexure Schedule, if required.)

25. Partially construct the berm and kerb crossing up to and including road metalling prior to commencing construction.
26. 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.
 - 26.1. Before commencing any work on the land the builder shall 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 site.
 - 26.2. 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.
 - 26.3. At the completion of the building and during the landscaping and laying of paths the builder shall reinstate the new footpath and berm crossing.
 - 26.4. All builders' site sheds shall be placed within the land. All sheds and other structures necessary for storage etc shall be freshly painted. No unloading of materials is permitted onto the footpath or berm areas or neighbouring lots, walkways, road or reserve.
27. 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.
28. 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.

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Annexure Schedule

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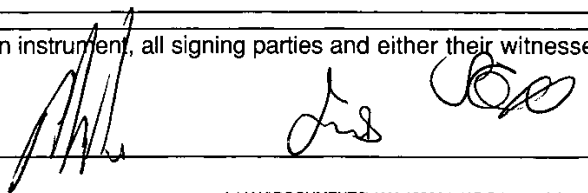
"Mortgage", "Transfer", "Lease" etc

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(Continue in additional Annexure Schedule, if required.)

29. 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.
30. Be bound by a Fencing Covenant within the meaning of Section 2 of the Fencing Act 1978.
31. Subject to clause 32 not erect or permit to be erected on the land any fence or boundary wall:
 - 31.1. Within 3.0 metres of the legal road boundary except on Lots fronting a Right of Way or Lots which have frontage to two Public Roads where fencing on the secondary road frontage may be permitted on the boundary. Street front fencing on such Lots shall be of similar materials to the dwelling and may include 'piers' with infill timber panels. Where the secondary road frontage is fenced on the boundary, such fencing shall be finished at least 1.0 metre behind the main building line. All road frontage and Right of Way frontage fence designs shall be consistent with the design and exterior materials of the dwelling. 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;
 - 31.2. On boundaries fronting a public reserve or waterway that has not received specific design approval of the Grantor. 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 or neighbouring amenity. Fencing fronting public reserves shall be of 'open' style for a minimum of 30% of the reserve boundary;
 - 31.3. On the internal boundaries of a height greater than 2m above the finished ground level and of materials other than new timber. All internal boundary fences shall be constructed in the form of a Paling Fence with timber palings on the same side of the rails as the posts and timber capping unless otherwise approved by the Grantor;
 - 31.4. However the Grantor retains the right at all times to erect partial or full boundary fencing on the reserve boundaries of Lots 96 and 97 on plan 359861 of Stage 4 of the subdivision.
32.
 - 32.1. With respect to Lots 93 - 103 inclusive on plan 359861 all fencing must be approved by the Grantor before it is erected and the

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Registered Proprietor must submit plans to the Grantor for approval prior to erection of the fence. With respect to Lots 95 - 103 inclusive on plan 359861, the western boundary fence alongside the reserve can be left unfenced or may be fenced as set out in this clause 32.1, and with respect to Lots 93 - 94 inclusive on plan 359861, the southern boundary fence can be left unfenced or may be fenced as set out in this clause 32.1:

- 32.1.1. The fencing for each Lot shall have a minimum of 30% of open style fencing (for example tubular steel); and
- 32.1.2. The balance of the fence may be of solid fencing (for example plaster over block painted in earthy colours, or natural material such as stone); and
- 32.1.3. Subject to clause 32.1.4, timber fencing will not be allowed unless the Grantor has seen and approved the plans for the fence prior to erection of the fence and the fence has been built in accordance with the approved plans; and
- 32.1.4. Paling fencing will not be allowed.

Where this clause 32.1 is in conflict with any other provision in these covenants, this clause shall prevail.

- 33. Not plant or permit to grow any live hedge greater than 1.5 metres in height or plant *Pinus Radiata* or *Cedrus Macrocarpa* trees.
- 34. Ensure that all approvals or consents required from the Grantor shall be sought by the Registered Proprietor from the Grantor (or its appointed agent) prior to any work being carried out on the land.
- 35. 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.
- 36. Not use the land as a road or for vehicle or road access serving or providing access to any adjoining land without first obtaining prior written approval from V B Properties Limited or its nominee (such approval may be withheld by V B Properties Limited or its nominee for any reason and V B Properties Limited or

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Annexure Schedule

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its nominee does not have to give any reason for its decision and such decision shall be final).

37. 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:-

37.1. 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 upon which written demand has been made; and

37.2. 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 foregoing 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 restrictive 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 87 – 103 on plan 359861 of Stage 4 of the subdivision. Any person having the benefit of these restrictive 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 the Grantor shall not be liable hereunder.
- D. The Grantor shall not be required or obliged to enforce all or any of the covenants, stipulations and restrictions contained in this land covenant 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.

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- E. The Registered Proprietor covenants that the Registered Proprietor will at all times save harmless and keep indemnified the Grantor 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 2026. Such cessation shall be without prejudice to any rights accruing for any antecedent breach of the covenants.

TO: The District Land Registrar

It is requested that the within covenants are noted on the titles to the dominant and servient tenements.



Solicitor for the Grantor

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