



View Instrument Details

Instrument No. 10335503.5
Status Registered
Date & Time Lodged 07 Mar 2016 13:37
Lodged By Taylor, Deanne Carol
Instrument Type Easement Instrument

Land Information
Toitu te
whenua
New Zealand



Affected Computer Registers	Land District
715554	North Auckland
715555	North Auckland

Annexure Schedule: Contains 7 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 ☒

I certify that the Mortgagee under Mortgage 8859187.1 has consented to this transaction and I hold that consent ☒

Signature

Signed by Deanne Carol Taylor as Grantor Representative on 04/03/2016 01:21 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 Deanne Carol Taylor as Grantee Representative on 04/03/2016 01:21 PM

*** 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**RAHOPARA FARMS LIMITED****Grantee****RAHOPARA FARMS 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	See clause 1.1; Annexure Schedule A		
Fencing covenant	See clause 4.1; Annexure Schedule A		

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 A]~~

Form L**Annexure Schedule A**

Page 1 of 5 Pages

*Insert instrument type***Land Covenant****BACKGROUND**

- A. The Grantor is the registered proprietor of the Covenanting Lot and the Benefiting Lot.
- B. The Covenanting Lot and the Benefiting Lot are part of a rural residential estate ("the rural estate").
- C. The Grantor has agreed to create the covenants as set out herein in favour of the Grantee in order to ensure that the character of the rural estate is maintained, preserved and enhanced.

DEFINITIONS AND INTERPRETATION**1.1 Definitions**

"the Developer" means Rahopara Farms Limited or any person or entity appointed or nominated in writing by them to be the Developer. Where the Developer has been dissolved, wound up, deregistered or otherwise passed out of existence any approval or consent required from the Developer shall mean approval or consent by any party previously appointed and/or nominated in writing by the Developer for this purpose.

"Benefiting Lot" means Lot 5 and any lot in respect of which a separate Certificate of Title issues as a result of a subdivision of Lot 5 provided that such lot shall only be a benefiting lot for so long as the Developer is the registered proprietor of that lot.

"Covenanting Lot" means Lot 6 DP 492213.

"the Grantee" means the Developer.

"the Grantor" means the owners for the time being of the Covenanting Lot and includes their respective successors transferees and assigns.

"Lot 5" means Lot 5 DP 492213.

"Relevant Authority" means the local or regional authorities with jurisdiction over the Development.

1.2 Interpretation

- (a) words and expressions denoting the singular shall where the context so requires include the plural and vice versa.
- (b) headings have been inserted for guidance only, and shall not be deemed to form part of the context of this instrument.

COVENANTS**2. Agreement**

- 2.1 The Grantor, for itself so as to bind the Covenanting Lot covenants and agrees with the Grantee that the Grantor shall always observe and perform all of the covenants set out in clause 3.0 of this instrument until the Developer ceases to be registered as proprietor of the Benefiting Lot at which time the covenants shall cease to apply to the end and intent that each of the covenants

shall enure for the benefit of the Benefiting Lot for so long as the Developer is the registered proprietor of the Benefiting Lot.

- 2.3 The covenants in this instrument shall be enforceable by the Grantee (and the Grantee's assigns, transferees or successors) against the Grantor as owner of the Covenanting Lot and his, her or its successors in title, transferees, assigns and occupiers for the time being of the Covenanting Lot.
- 2.4 No delay or failure by the Grantee to enforce performance of any covenants set out in this instrument and no indulgence granted to the Grantor by the Grantee shall prejudice the right of the Grantee to enforce any of the covenants or provisions of this instrument.
- 2.5 The Grantor shall bear any costs which may be incurred by the Grantee as a result of any default by the Grantor under this instrument including but not limited to all costs incurred on a solicitor/client basis.
- 2.6 The Grantee shall not be required to nor obliged to enforce all or any of the covenants and the Grantor shall be liable only in respect of breaches of the covenants which occur while the Grantor is registered as proprietor of the Covenanting Lot.
- 2.7 If there is any breach or non-observance of the covenants set out in this Instrument then the Grantor must (without prejudice to any other liability the Grantor may have to any person having the benefit of the covenants):
 - (a) cease any activity in breach or non-observance of the covenants;
 - (b) otherwise remedy any breach or non-observance of the covenants.

3.0 The Grantor shall:

- 3.1 not permit or suffer the use of the Covenanting Lot for any purpose other than predominantly residential use nor use the Covenanting Lot for commercial farming of any description including but not limited to pig farming, poultry farming or goat farming.
- 3.2 not permit any horses, cattle or donkeys to be kept on a Covenanting Lot.
- 3.3 not permit or suffer any rubbish to accumulate or to be placed upon the Covenanting Lot, and at all times to maintain the house and curtilage on a Covenanting Lot in a neat and tidy condition including keeping the grass mowed or grazed so the grass does not exceed 150mm in height.
- 3.4 not permit any immobile/unroadworthy vehicles to be stored on the Covenanting Lot unless those vehicles are stored within an enclosed shed or garage.
- 3.5 ensure that pasture areas are regularly grazed or mown.
- 3.6 not construct on the Covenanting Lot:
 - (a) a dwelling with a floor area less than 200 square metres (excluding garage, carports and decking) or such lesser area as approved in writing by the Developer.
 - (b) any dwelling in the shape of a simple rectangle.
 - (c) a dwelling, garage, carport, barn or shed which is other than predominantly clad in the following materials of neutral colours:
 - i. kiln fired or concrete brick; and/or
 - ii. stucco finish on fibrous sheet or polystyrene, concrete block or solid concrete; and/or
 - iii. stone; and/or
 - iv. timber; and/or

- v. painted "weatherboards" (such as "Linear™"); and/or
 - vi. glass; and/or
 - vii. any other cladding approved in writing by the Developer.
- (d) any dwelling or building on the property that has a "mono-cladding" appearance unless approved in writing by the Developer.
- 3.7 construct roofing of any building on the Covenanted Lot only of tile, shingle, glass or any pre-painted iron material.
- 3.8 complete the exterior construction of any dwelling, or accessory building on the Covenanted Lot within six months of the date of commencement of the building.
- 3.9 construct no more than two dwellings on the Covenanted Lot
- 3.10 not erect on the Covenanted Lot or relocate to the Covenanted Lot a dwelling which is "second hand" or is pre constructed.
- 3.11 not subdivide, or permit any subdivision of the Covenanted Lot including subdivisions by way of cross-leases and subdivisions under the Unit Titles Act 1972 provided that this covenant shall not apply while the Covenanted Lot is owned by the Developer.
- 3.12 not allow any temporary building or structure to be erected on the Covenanted Lot except that which may be used in conjunction with the construction of permanent buildings and which will be removed from the Covenanted Lot upon completion of the said construction.
- 3.13 not commence the construction or erection of improvements on the Covenanted Lot whether buildings, accessory buildings, or fences (and this shall also include exterior finishes and excavation of foundations upon the Covenanted Lot) unless plans and specifications and all other details of construction and finish as the Developer in its absolute discretion may require have been submitted to the Developer and have received the Developer's written approval which approval shall not be unreasonably withheld where the Developer is satisfied that the proposed building is reasonably sited, compliments adjoining properties and does not detract from the standard of housing in the rural estate and the neighbouring properties and otherwise complies with the Covenants set out in this instrument.
- 3.14 not erect a fence on the Covenanted Lot constructed of materials other than brick, wood, plastered concrete block, or minimum five-wire post and/or battens and no fence shall exceed 1.80 metres in height above natural ground level, and not allow any advertisement, sign or hoarding of a commercial nature to be erected on any part of the Covenanted Lot.
- 3.15 not permit any telecom or electricity services to be provided by "overhead" means to the dwelling (and any other structures/buildings to be erected on the Covenanted Lot). All other utilities and services must be by underground means from the road to the dwelling and other structures/buildings to be erected on the Covenanted Lot.
- 3.16 in respect of any Covenanted Lot that has been landscaped or planted by the Developer over areas marked K, L, M and N on LT plan 492213 ("planted areas"):
- (a) allow access to the Developer, or its agents, workmen, employees or invitees, upon reasonable notice being given, for the purpose of maintaining the planted areas and replacing any damaged or dead plants, trees or shrubs prior to 1 September 2017.
 - (b) take all reasonable steps to ensure that the planted areas are not damaged or harmed in any way including but not limited to ensuring that the existing fences are maintained and the planted areas are kept free of any livestock or other animals;
 - (c) maintain and preserve any existing vegetation on the planted areas from 1 September 2017 onwards;
 - (d) ensure that if any plants, trees or shrubs forming part of the planted areas are damaged or die after 1 September 2017, the Grantor will replace the same with similar species;

- (e) allow the Auckland Council to register a consent notice on the title to the Covenanted Lot to give effect to the protection of the planted areas generally as described in sub-clauses (a)-(d) above if required by the Developer.

The Grantor acknowledges and agrees that any planted areas can only be removed or replaced with alternative planting if the Developer's written approval has been obtained.

- 3.17 ensure that all existing fencing is maintained and not tampered with, modified, painted or stained without the written consent of the Developer.
- 3.18 for so long as the Developer is the registered proprietor of the Benefiting Lot, not make any objection to any application by the Developer for a resource consent for the subdivision of the Benefiting Lot into no more than five lots and otherwise in the configuration that the Developer may in its absolute discretion stipulate and the Grantor shall when requested by the Developer execute any document, submission or consent in support of that application and any document required to be executed to enable the Developer to complete the subdivision.
- 3.19 not sell, transfer or otherwise dispose of a covenanted lot without procuring the new purchaser, transferee or disposee to enter into, execute and deliver to the Developer:
 - (a) a deed of covenant in favour of the Developer in which the new purchaser, transferee or disposee covenants to support and not make any objection to the applications set out in clause 3.18 above and;
 - (b) a Power of Attorney in a form prepared by the Developer in favour of the Developer being in the form stipulated by the Grantee such power of attorney enabling the Developer to complete and execute any documents, submissions and consents in support of the applications referred to in clause 3.18 above.

4.0 Fencing

- 4.1 The Developer shall not be required nor shall it be called upon to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between any of the Lots and any contiguous land owned by the Developer, but this proviso shall not enure for the benefit of any subsequent registered proprietor of such contiguous land.

5.0 Indemnity and Consequences of Breach

- 5.1 The Grantor covenants with the Grantee that it will at all times save harmless and keep indemnified the Grantee from all proceedings, costs including those on a solicitor/client basis, claims and demands in respect of breaches by the Grantor of the covenants on its part contained or implied herein, and also the enforcement of such covenants by the Grantee.
- 5.2 The Grantor acknowledges that the value of the Benefiting Lot will be affected by any non-compliance with or breach of any of the covenants contained or implied herein and the Grantor covenants for the benefit of the Benefiting Lot and of each registered proprietor of the Benefiting Lot from time to time that should the Grantor fail to comply with, observe, perform or complete any of the covenants contained or implied herein then without prejudice to any other liability the Grantor may have to the Grantee (which includes any other person or body having the benefit of such covenants) the Grantor shall:
 - (a) immediately cease any activity in breach of these covenants; and
 - (b) immediately permanently remove or cause to be permanently removed from the Covenanted Lot any offending improvements or structure or other cause of any breach or non-observance of such covenants; and otherwise forthwith remedy the breach or non-observance thereof and replace any building materials used in breach or non-observance of these covenants; and
 - (c) if the breach or failure is not remedied within 15 working days of the date of written notice of such breach or failure then the Grantee (together with its agents, employees or contractors) shall be entitled to enter onto the Covenanted Lot to arrange for rectification of the Grantor's breach or failure at the cost of the Grantor; and
 - (d) if the breach or failure is not remedied within 15 working days of the date of written notice of such breach or failure then the Grantor must pay to the person making such demands as liquidated damages the sum of \$200 per day for every day that such

breach or non-observance continues after the date upon which written demand has been made together with any costs and expenses incurred by the Developer or any registered proprietor to remedy the breach or non-observance.

6.0 General

- 6.1 The covenants set out in clause 3.0 of this Instrument shall run with each Covenanting Lot set out in the First Schedule for the benefit of the Benefiting Lot described in the First Schedule TO THE INTENT that the Grantor and Grantee shall continue to be bound until the earlier of the date the Developer ceases to be registered proprietor of the Benefiting Lot or the date upon which they cease to hold a fee simple estate in a Covenanting Lot as the case may be but without prejudice to any liability for any breach of covenant under this Instrument arising before such date.