

Property Guru

By  CoreLogic®

Property Guru document ordering service

Document, Interest, Instrument: 10552540.8

CoreLogic Reference: 2184989/1

Processed: 12 June 2017

Sourced from Property Guru, a CoreLogic solution. For any queries about this document or this service please call 0800 355 355 or email documentordering@corelogic.co.nz.



View Instrument Details

Instrument No. 10552540.8
Status Registered
Date & Time Lodged 20 Oct 2016 16:18
Lodged By Dewhurst, Sarah Louise
Instrument Type Easement Instrument



Affected Computer Registers	Land District
765659	South Auckland
765660	South Auckland
765661	South Auckland
765662	South Auckland
765663	South Auckland
765664	South Auckland
765665	South Auckland
765666	South Auckland
765667	South Auckland
765668	South Auckland
765669	South Auckland
765670	South Auckland
765671	South Auckland
765672	South Auckland
765673	South Auckland
765674	South Auckland
765675	South Auckland
765676	South Auckland
765677	South Auckland
765678	South Auckland
765679	South Auckland
765680	South Auckland
765681	South Auckland
765682	South Auckland
765683	South Auckland
765684	South Auckland
765685	South Auckland
765686	South Auckland
765687	South Auckland
765688	South Auckland
765689	South Auckland

Annexure Schedule: Contains 8 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 Timothy Daniel Neill as Grantor Representative on 15/02/2017 04:13 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 Timothy Daniel Neill as Grantee Representative on 15/02/2017 04:14 PM

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

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

Grantor

BALLINTOY DEVELOPMENTS LIMITED

Grantee

BALLINTOY DEVELOPMENTS LIMITED

Grant of Easement or *Profit a 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) a 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 (Schedule A1 and Fencing Covenant as defined in S.2 of the Fencing Act 1978)	DP 506072	Lot 1 DP 506072 CT 765661 Lot 2 DP 506072 CT 765662 Lot 3 DP 506072 CT 765663 Lot 4 DP 506072 CT 765664 Lot 5 DP 506072 CT 765665 Lot 6 DP 506072 CT 765666 Lot 7 DP 506072 CT 765667 Lot 8 DP 506072 CT 765668 Lot 9 DP 506072 CT 765669 Lot 10 DP 506072 CT 765670	Lot 1 DP 506072 CT 765661 Lot 2 DP 506072 CT 765662 Lot 3 DP 506072 CT 765663 Lot 4 DP 506072 CT 765664 Lot 5 DP 506072 CT 765665 Lot 6 DP 506072 CT 765666 Lot 7 DP 506072 CT 765667 Lot 8 DP 506072 CT 765668 Lot 9 DP 506072 CT 765669 Lot 10 DP 506072 CT 765670

	Lot 11 DP 506072 CT 765671	Lot 11 DP 506072 CT 765671
	Lot 12 DP 506072 CT 765672	Lot 12 DP 506072 CT 765672
	Lot 13 DP 506072 CT 765673	Lot 13 DP 506072 CT 765673
	Lot 14 DP 506072 CT 765674	Lot 14 DP 506072 CT 765674
	Lot 15 DP 506072 CT 765675	Lot 15 DP 506072 CT 765675
	Lot 16 DP 506072 CT 765676	Lot 16 DP 506072 CT 765676
	Lot 17 DP 506072 CT 765677	Lot 17 DP 506072 CT 765677
	Lot 18 DP 506072 CT 765678	Lot 18 DP 506072 CT 765678
	Lot 19 DP 506072 CT 765679	Lot 19 DP 506072 CT 765679
	Lot 20 DP 506072 CT 765680	Lot 20 DP 506072 CT 765680
	Lot 21 DP 506072 CT 765681	Lot 21 DP 506072 CT 765681
	Lot 22 DP 506072 CT 765682	Lot 22 DP 506072 CT 765682
	Lot 23 DP 506072 CT 765683	Lot 23 DP 506072 CT 765683
	Lot 24 DP 506072 CT 765684	Lot 24 DP 506072 CT 765684
	Lot 25 DP 506072 CT 765685	Lot 25 DP 506072 CT 765685
	Lot 26 DP 506072 CT 765686	Lot 26 DP 506072 CT 765686
	Lot 27 DP 506072 CT 765687	Lot 27 DP 506072 CT 765687
	Lot 28 DP 506072 CT 765688	Lot 28 DP 506072 CT 765688
	Lot 29 DP 506072 CT 765689	Lot 29 DP 506072 CT 765689
	Lot 31 DP 506072 CT 765659	Lot 31 DP 506072 CT 765659
	Lot 32 DP 506072 CT 765660	Lot 32 DP 506072 CT 765660

Easements or profits a 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 2]~~

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 1]~~

Annexure Schedule 1

Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Easement Instrument

Dated

Page

of

Pages

Schedule A1

The Grantor and Grantee are the registered proprietors of the Land in Certificates of Title 765659 to 765689 (inclusive).

The Grantor covenants in favour of the Grantee in respect of the land in Certificates of Title 765659 to 765689 (inclusive) (each a "Lot" or "Servient Lot") in accordance with this Annexure Schedule, each such covenant to forever apply to each Servient Lot and to bind the respective owners and occupiers for the time being of each Servient Lot and be appurtenant to, for the benefit of, and run with each of the Certificates of Title 765659 to 765689 (inclusive) ("the Dominant Lots") and be enforceable by the Grantee or the respective owners and occupiers for the time being of the Dominant Lots.

For the purpose of this instrument the "Developer" shall be the company Ballintoy Developments Limited or its nominee.

The Grantor and the Grantor's successors in title hereby covenant with the Grantee for and on behalf of the Grantee and the Grantee's successors in title as follows:

1. The Grantor agrees that they will not commence construction of any dwellinghouse prior to submitting to the Developer and obtaining approval from the Developer of the final building plans of any such dwellinghouse (as intended to be submitted for a building consent) including full details of all exterior colour schemes and finishes and details of fencing and front yard landscaping. Such approval shall be entirely at the Developer's discretion in all respects. Failure to comply with this clause will result in liquidated damages being payable of \$3,000, which may be discounted if the house is not fully complete. The said amount of \$3,000 shall be increased annually by reference to the Consumer Price Index (CPI) (All Groups) or equivalent replacement index.
2. The Grantor further agrees, for the purposes of formation of a building scheme to benefit all the building Lots comprised on the plan, that the Grantor:
 - (a) Shall not construct any building with a gross floor area, including garages, of less than 150 square metres for a single dwellinghouse, except if the Lot is 540 square metres or less then shall not construct any building with a gross floor area, including garages, of less than 140 square metres for a single dwellinghouse.
 - (b) Shall not construct any building on the land with an external wall cladding (except for soffits and/or in association with textured finishes) of unrelieved flat sheet fibrolite, Hardiflex, galvanised steel, plywood sheeting, metal sheeting, Hardiplank or similar materials. (NB The Developer wishes to attain a minimum uniform standard of exterior finishes which work together in creating harmony with the subdivision.)
 - (c) Shall not use nor occupy any building as a residence until such time as construction has been completed and all the exterior sheeting and finishing, including exterior painting, has been completed.
 - (d) Shall not use as a roofing material any material other than prepainted colour steel, concrete or metal tiles or other tiles approved by the Developer. No unpainted roof shall be allowed on any building on the land.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule 1

Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Easement Instrument

Dated

Page

of

Pages

- (e) Shall not allow the exterior of any building or the roof of any building to be of a colour scheme other than a colour scheme that will blend in with the environment. To ensure compliance with this the Developer must first approve in writing the proposed colour of any exterior and roof of any building.
- (f) Shall not erect, nor permit to be erected, fencing constructed of steel or panel steel, corrugated iron, cement fibreboard, untextured flat fibrolite, Hardiflex, Hardiplank, plywood sheeting or other similar materials.
- (g) Shall not construct, nor permit to be erected, any fence or boundary wall nor permit any hedge shrubs or tree to be planted or grown as a living fence unless it is no more than 1.8 metres in height.
- (h) Shall not erect nor permit second-hand, relocated or temporary buildings to be placed on the land.
- (i) Shall not use nor incorporate any second hand materials into any building or structure erected on the land.
- (j) Shall not erect, or permit to be erected, any fence or boundary wall nor permit any hedge shrubs or trees to be planted or grown as a living fence at any time within three metres of the road boundary in order to maintain an open environment other than with the Developer's prior written consent, which consent shall be entirely at the Developer's discretion in all respects.
- (k) Shall not call upon the Developer to pay or contribute towards the cost of erection or maintenance of any boundary fence between the property and any adjoining Lot owned by the Developer, provided that this covenant shall not enure for the benefit of the subsequent transferee of such adjoining land.
- (l) Shall not allow the building to be constructed with a basement or subfloor space that does not have exterior walls of the basement subfloor sheeted with cladding in accordance with the provisions of subclause 2(b) above.
- (m) Shall not permit any rubbish to accumulate and/or to be placed upon the land or permit grass or weeds to grow in excess of 100mm in height or to become unsightly, or allow any waste, soil or other matter to foul the roadway, footpaths or berms, but notwithstanding the obligations of the Grantor under this sub-clause, the Developer shall be entitled at any time during the period of 12 months from the date of registration of this covenant to mow the sections, but the Grantor accepts and acknowledges that this does not absolve the Grantor from liability to keep the section in a clean and tidy condition at all times. The Developer shall be entitled to charge the Grantor for any costs it incurs due to the default of the Grantor under this clause.
- (n) Shall not permit nor allow rubbish, junk, car bodies, litter or other similar unsightly items to accumulate or be placed upon the land and otherwise allow the land to become unsightly.
- (o) Shall not erect nor permit to be erected upon the land any caravan, bus, hut or shed to be

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or Initial in this box.

Annexure Schedule 1

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Easement Instrument

Dated

Page

of

Pages

used as a dwelling house, temporary dwelling or to be stored on the land except such caravan, hut or shed as will be used as a builders shed in conjunction with the construction of the permanent dwelling which will be placed on the land at the commencement of construction of the permanent dwelling and removed immediately on completion of the construction of the permanent dwelling.

- (p) Shall not use nor permit the land to be used for any trading or commercial purposes except for the display of the land and buildings for resale purposes or show home display.
 - (q) Shall not permit any advertisement sign or hoarding of a commercial nature to be erected on any part of the land without the prior written consent of the Developer except for the display of the land and buildings for resale purpose or show home display.
 - (r) Shall not construct a vehicle crossing and driveway unless they are completed to the Territorial Authority's standard and specifications prior to occupation of the residence and unless they are in sympathy with the subdivision. Any vehicle crossing or driveway must be paved with hot mix asphalt, chip seal, concrete or cobblestones.
3. Notwithstanding the provisions of clause 2(p) subject to the criteria set out below the Grantor may amalgamate several Lots together to form one larger Lot for the purposes of developing a day care centre, play school, retirement village, retail shops or such similar uses provided that the following criteria are met:
- (i) Prior written consent is obtained from the Developer which will be granted entirely at the sole discretion of the Developer who shall not be obliged to give any reasons for refusing to grant consent;
 - (ii) Resource consent being granted by the Tauranga City Council at the cost of the Grantor; and
 - (iii) The development must comply in all respects with the general terms of the building enhancement covenants, but entirely at the sole discretion of the Developer.
- (b) Approval by the Developer does not expressly or impliedly warrant that the Lots may be amalgamated or that the land may be used for any particular use. The Grantor is responsible to make its own enquiries at its own cost as to the ability to amalgamate the Lots or to use the Lot for any particular purpose.
4. The Grantor may not subdivide the Lot without the prior written consent of the Developer which will be granted entirely at the sole discretion of the Developer who shall not be obliged to give any reasons for refusing to grant consent. Further, the Grantor will require a resource consent to be granted by the Tauranga City Council at the cost of the Grantor; and the development must comply in all respects with the general terms of the building enhancement covenant but entirely at the sole discretion of the Developer.
5. The Grantor shall complete building (i.e. ready for occupation including drives, paths, fences, letterbox, landscaping and rotary hoe) within twelve (12) months of commencing construction.
6. The Grantor shall, within six (6) months of completion of the building on the land, landscape the

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule 1

Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Easement Instrument Dated Page of Pages

- land with lawns and shrubs in accordance with the approved landscaping plan. The Grantor shall ensure that in the front yard there are not less than two (2) trees. If the Grantor defaults with the requirements of this sub clause, the Developer or its agents, contractors or appointees may enter the land and take whatever action the Developer considers necessary at the Developer's expense, to remedy the default and if the Grantor fails to pay the Developer upon demand the costs incurred, the Developer may recover these costs from the Grantor as liquidated damages in any court of competent jurisdiction.
7. The Grantor shall ensure that any trees or vegetation planted will not grow to a height greater than five (5) metres.
 8. The Grantor shall ensure that clotheslines are away from the road and obscured from direct sight of the road.
 9. The Grantor shall not permit to be placed any satellite dishes over one (1) metre in diameter on the building or the land and shall not permit any satellite dish or antennae to be placed in the front yard on the land. The Grantor shall ensure that any satellite dish or television antennae are positioned in such a place that they are not in full view of either the road or the front yard of the land. No antennae or satellite dish will extend higher than two (2) metres above the roofline of the building.
 10. The Grantor shall not erect on the property any other building other than a single dwellinghouse, except in the case of development of Lots in accordance with clause 3 above.
 11. The Grantor shall be responsible for and reinstate all damage to the roads, footpaths, kerbs, berms and structures in the Subdivision caused by the Grantor or the Grantor's contractors, subcontractors, agents, employees, workmen or any of them or arising from the Grantor's use of the land.
 12. The Grantor shall keep and maintain the land and the Council owned road frontage of the land in a neat and tidy condition.
 13. Notwithstanding the provision that only a single dwellinghouse can be erected, subject to the criteria set out below, the Developer may allow approval for a Home & Income dwelling within the one single dwellinghouse provided the following criteria are met:
 - (i) Prior written consent is obtained from the Developer, which will be granted entirely at the sole discretion of the Developer who shall not be obliged to give any reasons for refusing to grant consent;
 - (ii) The development must comply in all respects with the general terms of the building enhancement covenant but this is entirely at the sole discretion of the Developer.
 14. The Grantor shall be entirely responsible to obtain his/her own resource and building consents in respect of the dwellinghouse following receipt from the Developer of the approval of the plans and agrees to comply with any such consents in all respects as required.
 - (a) Should the Territorial Authority require any alteration or modification to the plans before granting the consent then such altered or modified plans shall be resubmitted to the Developer for further approval before construction shall commence.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

Annexure Schedule 1

Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Easement Instrument

Dated

Page

of

Pages

15. If there should be any breach or non-observance of any of the covenants and conditions contained in the above clauses and without prejudice to any other liability which a Grantor may have to any Authority or any person having the benefit of such covenants and conditions and without in any way restricting the remedies available to any Grantee or any person having the benefit of such covenants and conditions, the Grantor will upon written demand made by the Developer or his nominee or by any of the registered proprietors of the Lots within Ballintoy Park Stage 5:
- (i) Remove or cause to be removed from the section(s) any building used, erected, commenced or repaired in breach or non-observance of covenants and conditions;
 - (ii) Replace any building material used or permitted to be used in breach or non-observance of the covenants and conditions with building materials which comply with the Developer's requirements under these covenants and with any approval of any proposal submitted by the Grantor;
 - (iii) Pay to the person making such demand as liquidated damages the sum of \$500 per day for each day that such breach or non-observance continues after the date upon which written demand has been received. The said amount of \$500 shall be increased annually by reference to the Consumer Price Index (CPI) (All Groups) or equivalent replacement index. Ballintoy Developments Limited and/or any Nominee of Ballintoy Developments Limited are excluded from clause 15(iii).

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.