

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

200916229EF
APPROVED
Registrar-General of Land

Grantor

WFH PROPERTIES LIMITED

Grantee

WFH PROPERTIES 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
RIGHT TO MAINTAIN GARDEN	A DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 1019 DP 507389 (CT 774634)
	B DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 705 DP 507389 (CT 774632, 774633, 774634)
	C DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 1017 DP 507389 (CT 774632)
	D DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 704 DP 507389 (CT 744629, 774630, 774631)
	E DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 1014 DP 507389 (CT 774629)
	F DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 703 DP 507389 (CT 774626, 774627, 774628)
	G DP 507389	LOT 2000 DP 507389 (CT 784343)	LOT 1011 DP 507389 (CT 774626)

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

The implied rights and powers are hereby added to:

~~[Memorandum number _____, register under section 155A of the Land Transfer Act 1952]~~

[by the provisions set out in Annexure Schedule B]

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 15-5A of the Land Transfer Act 1952]~~

~~[Annexure Schedule _____]~~

ANNEXURE SCHEDULE "B"

1. The Grantee shall have the right, liberty and privilege from time to time and at all times to use, occupy and enjoy the Easement Area (as shown as Areas A to G (as appropriate) on DP 507389) on the terms set out herein.
2. Subject to clause 5 herein, the Grantee shall have the sole responsibility for maintenance of the Easement Area in accordance with the terms set out herein.
3. The Grantee shall have the right, liberty and privilege to fence the Easement Area provided that it shall not erect any fence and/or wall on the Easement Area:
 - (a) on or within 5 metres of a road boundary if that wall is a timber retaining wall unless WFH Properties Limited or its appointed agent has, in its sole discretion, approved the erection of a timber retaining wall within 5 metres of a road boundary;
 - (b) which bounds on a Reserve unless that fence is a black pool fence style MF1013 with fence detail by Auckland Fencing and Auto Gates, such detail as at the date of the registration of this Easement or such other fence which WFH Properties Limited or its appointed agent, in its sole discretion, shall approve (an approved fence);
 - (c) on or within 3 metres of a road boundary, unless that fence is an approved fence of no more than 1 metre high on a side boundary or is a retaining wall that is not made from timber;
 - (d) with the exception of an approved fence any fence or wall using second hand materials and/or using corrugated or metal products.
 - (e) any fence or wall visible from any road, jointly owned accessway lot or Reserve unless it complies with this Clause 3 in all respects.
4. The Grantee shall not allow any planting or erections on the Easement Area to exceed a height of 1.8m from the original ground level of the Grantee's land unless the Grantor, in its sole discretion shall consent.
5. The Grantor shall have the right to enter onto the Easement Area and the dominant tenement as and when it requires for the purposes of repair, maintenance and upgrade of the timber retaining wall forming part of the Grantor's land provided that:
 - (a) Such repair, maintenance or upgrade has obtained all necessary Council and other consents;
 - (b) The Grantor remains on the Easement Area and the dominant tenement for as short a time as is reasonably possible in order to undertake that repair, maintenance or upgrade;
 - (c) The Grantor reinstates the garden, planting and other permitted erections that the Grantee has installed on the Easement Area by restoring the surface of the land and any planting and other permitted erections as nearly as possible to their former condition;
 - (d) The Grantor must ensure that as little damage or disturbance as possible is caused to the dominant tenement and to the Grantee;
 - (e) The Grantor must ensure that all work is performed in a proper and workmanlike manner;

- (f) The Grantor must compensate the Grantee for all damage caused by the work to any buildings, erections, fences or planting on the dominant tenement.
6. The Grantee shall not be entitled to call upon the Grantor to pay for or contribute towards the expense of construction or maintenance of any fence between the Grantee's land and the Grantor's land that it would otherwise be able to do so in accordance with the Fencing Act 1978 or any Act passed in substitution thereof.
 7. Whilst WFH Properties Limited is either the Grantor or the Grantee, it shall have no obligations to contribute towards any of the costs and/or expenses that may be incurred pursuant to this Right to Maintain Garden.
 8. If the Grantee shall subdivide the dominant tenement at any time, the rights and obligations of the Grantee pursuant to this easement instrument shall be read as if the Grantee shall only mean the registered proprietor(s) of that computer register that is, or those computer registers which are, immediately adjacent to the Easement Area and/or any part of the Easement Area, and the rights and obligations of each Grantee shall only be in respect of the portion of the Easement Area that is immediately adjacent to a respective Grantee's computer register at any given time.
 9. If WFH Properties Limited wishes to surrender this easement in respect of any part of the Easement Area which has become redundant or the benefit is no longer required, then the Grantor and Grantee each appoint WFH Properties Limited as their Attorney or Delegate (as appropriate), including but not limited to requesting consent from any mortgagee or chargeholder, for the purpose of completing and registering a surrender of this easement in respect of any part of the dominant tenement for which the registered proprietor is WFH Properties Limited, and for which the easement has either become redundant or the benefit is no longer required by WFH Properties Limited. The Grantor and Grantee acknowledge there is no obligation on WFH Properties Limited to exercise its right pursuant to this clause.
 10. If there be any breach or non-observance of any of these covenants:
 - (a) there shall be no obligation on WFH Properties Limited to take any steps to enforce these covenants.
 - (b) if there is more than one Grantor for any Servient Lot the liability of the Grantors for the Servient Lot shall be joint and several.
 - (c) the Grantor in breach shall rectify any breach.
 11. In the event of any dispute which cannot be resolved by agreement between the Grantor and the Grantee as to any matter relating to the abovementioned restrictive covenants, the same shall be resolved by arbitration under the provisions of the Arbitration Act 1996 or any Act passed in substitution or amendment thereof by a single arbitrator appointed for that purpose by the nominee of the President of the New Zealand Law Society and the decision of that arbitrator shall be final and binding on the Parties.
 12. The covenants in this instrument will cease to apply to any land that 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.