

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
Land Covenant	See attached Annexure Schedule	See attached Annexure Schedule	See attached Annexure Schedule

REF: 7203 - AUCKLAND DISTRICT LAW SOCIETY INC.

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 proscribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007~~

The implied rights and powers are hereby **[substituted]** _____ by:

[Memorandum number _____, register _____ 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 15-5A of the Land Transfer Act 1952]

[Annexure Schedule 2]

REF: 7203 - AUCKLAND DISTRICT LAW SOCIETY INC.

ANNEXURE SCHEDULE 2

The Grantee when registered proprietor of the land formerly contained in Unique Identifier 799957 subdivided the land into lots in the manner shown and defined on Deposited Plan 526814 (hereinafter referred to as the "the Plan").

WHEREAS it is the Grantee's intention to create a high quality subdivision. To enable this to occur it is the Grantors intention to create for the benefit of the land set out in Schedule 2C (hereinafter referred to as the "Dominant Lots") the land covenant set out in Schedule 2B over the land set out in Schedule 2A (hereinafter referred to as the "Servient Lots")

AND so as to bind the Servient Lots and for the benefit of the respective Dominant Lots the Grantor **DOTH HEREBY COVENANT AND AGREE** in the manner set out in the Schedule 2B hereto so that the covenant runs with the Servient Lots set out in Schedule 2A for the benefit of each of the respective Dominant Lots as described in Schedule 2C.

SCHEDULE "2A"

Lot No.	Certificate of Title	Lot No	Certificate of Title
44	855936	45	855937
46	855938	47	855939
48	855940	49	855941
50	855942	51	855943
54	855964	55	855954
56	855965	57	855966
58	855944	59	855955
60	855958	61	855957
62	855956	63	855959
64	855960	65	855961
66	855962	67	855963
68	855952	84	855969
85	855970	86	855971
87	855972	88	855945
89	855946	90	855973
91	855968	92	855947
93	855948	94	855949
95	855967	96	855953

SCHEDULE "2B"

1. The Grantor shall not erect on the land:
 - 1.1. any dwelling, building, structure or fence or landscaping:
 - (i) that has not had the sketch plans for same approved by WFH Properties Limited or its appointed agent prior to submission of final plans, specifications and finish.
 - (ii) that has the same plan, building shape and materials as any other dwelling within 250 metres of the land.
 - (iii) unless the final plans, specifications and finish have been approved by WFH Properties Limited or its appointed agent provided approval to such plans and specifications shall be deemed to have been given in respect of

any building which has been erected and occupied for a period of five (5) years or more without the Grantee objecting to same.

- 1.2. anything other than a single private dwelling house (including a double garage) with ancillary buildings/structures having a gross floor area, exclusive of verandahs, patios, and outbuildings, of at least 191 m².
 - 1.3. any dwelling or other building which does not satisfy the construction and material requirements set out in Clause 2;
 - 1.4. on any lot being 450m² or greater, any building or structure within 3 metres of any boundary adjoining a road except for a side fence or a retaining wall permitted pursuant to clauses 5.6(a) or 5.6(d)(i);
 - 1.5. any building that does not comply with the District Plan side yard set back rules unless a resource consent permitting the non-compliance with the District Plan side yard set back rules as been granted by Auckland Council. In this regard and notwithstanding the rules in the Auckland Unitary Plan, the Grantor shall be permitted to follow the blanket consent for Lots 90, 91, 95 and 96 to allow a minimum of a 6m rear yard setback, one side yard setback of 3m and the remaining yards setback of 1m as authorised by Land Use Consent LUC60069884. The rear yard setback is to be applied to the boundary located opposite the access to the land.
2. Unless WFH Properties Limited or its appointed agent in its full and unfettered written discretion permits a variation or waiver of this Clause 2, the Grantor shall not erect or place on the land any building, dwelling, carport, garage or other structure:
- 2.1. unless all roofs are sheathed in either pre-coated metal tiles, chip-coated metal tiles, concrete tiles, clay tiles, asphalt shingles or glass fibre shingles, or Colorsteel® long run roofing products, provided that if concrete tiles are used they may not be red or orange in colour;
 - 2.2. unless exterior walls are sheathed in brick or textured plaster or stone or glass or timber weatherboards or Linea Board or any combination of those materials;
 - 2.3. having fibrous cement products used for exterior finish other than for soffit lining or backing for textured plaster finish.
3. The Grantor shall not erect on the land any temporary building or structure whether purpose built or previously erected on other land except as may be necessary during the construction of the permanent buildings provided that all temporary buildings or structures will be removed from the land upon completion of the permanent buildings.
4. The Grantor shall not subdivide the land. Subdivide shall have the meaning "subdivide land" set out in Section 218 of the Resource Management Act 1991.
5. The Grantor shall not permit or suffer on the land;
- 5.1. unpainted sheds or unpainted garages;
 - 5.2. any garden shed that is visible from any road, jointly owned accessway lot or Reserve;
 - 5.3. any buildings in the course of construction to be left without substantial work being carried out on them for a period of two or more months;

- 5.4. any rubbish including garden or household waste to accumulate or be placed upon the land or permit any excessive growth of grass so that it exceeds 100 mm in height or otherwise becomes unsightly;
- 5.5. any removal of soil from the land except as shall be necessary for the construction of the dwelling and ancillary buildings;
- 5.6. the erection of any fence and/or wall on the land:
 - (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) on any boundary 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 ("Approved Fence");
 - (c) in areas AG to AX, BP to BT, CV to CZ, DA to DC, DJ to DN and FI to FN unless that fence is an Approved Fence;
 - (d)
 - (i) 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;
 - (ii) On the balance of the land a fence which exceeds 1.8 metres measured from the original ground level of the land.
 - (e) with the exception of an Approved Fence, any fence or wall using second hand materials and/or using corrugated or metal products.
 - (f) any fence or wall visible from any road, jointly owned accessway lot or Reserve unless it complies with this Clause 5.6 in all respects.
- 5.7. any motorhome, bus, caravan, trailer or similar that is parked on anything other than a hardstand area;
- 5.8. any motorhome, bus, caravan, trailer, permanent structure (that is not the dwelling) or similar to be used for human occupation;
- 5.9. any sign larger than 900mm by 600mm where such sign is visible from any road or jointly owned accessway lot or Reserve unless WFH Properties Limited or its appointed agent, in its sole and unfettered discretion, shall permit a larger sign. Such permission must be in writing and must be obtained before a larger sign is erected;
- 5.10. any satellite dish over 1 metre in diameter that is visible from any road or jointly owned accessway lot or Reserve.
- 5.11. any damage or alteration of the finished slope or any slope stabilisation device used on or within the reinforced earth batter wall in areas AG to AX, BP to BT, CV to CZ, DA to DC, DJ to DN and FI to FN (including any works below the ground of the finished slope or at the toe of the finished slope or below the ground generally). Should any damage be caused the Grantor shall promptly at its own expense rectify such damage. Should WFH Properties Limited grant consent for any works within areas AG to AX, BP to BT, CV to CZ, DA to DC, DJ to DN and

FI to FN, it shall at no time have any responsibility for the works and or any outcome of the works whether foreseen or unforeseen or requirement to provide either uphill or downhill support, that being the sole responsibility of the Grantor. The Grantor shall at all times adhere to any additional building restriction requirements set out in the Geotechnical Completion Report by Tonkin & Taylor as specified within the corresponding consent notice.

6. The Grantor shall:

- 6.1. only use any buildings on the land as a residence or other permitted activity authorised under the Auckland Council District Plan after buildings have been substantially completed in accordance with the terms of this covenant and the requirements of the local authority;
- 6.2. complete the landscaping of the land in accordance with plans pre-approved by WFH Properties Limited or its appointed agent prior to using any buildings on the land as a residence or other permitted activity by providing lawns and/or paving, trees, shrubs and flowers;
- 6.3. ensure that upon completion of any building on the land and prior to use of any building as a residence or other permitted activity:

- (a) any concrete on the footpath, kerb or driveway is reinstated to the following specifications (all per cubic metre);

13mm C/Agg Hunua W/Agg	940kg
Pap7 Hunua W/Agg	588kg
Helensville sand – Winstones	375kg
General purpose G/Bay cement	245kg
Water	167 litres
Micro Air 940-MBT	100ml
Pozzololith 370-MBT	0.74litres
Air Content	5.0%
Density	2297kg/m3
Yield	1.008
W/C Ratio	0.68

- (b) ensure that any kerb entrance crossing shall be reinstated to the original saw cuts and kerb detail as per Auckland Council specifications;

- 6.4. at all times comply with any plans, conditions, consents or similar imposed on it by any local or regional authority.

7. WFH Properties Limited or its appointed agent reserves the right at any time to waive or vary any of these covenants and if called upon to do so the Grantor will sign any documentation required to give effect to this waiver and/or variation.

8. The Grantor shall not oppose, frustrate, object to, nor take any action or encourage others to oppose, frustrate, object or take any action that might, in any way, prevent or hinder WFH Properties Limited and/or the Local Authority from progressing or completing the Millwater subdivision. This covenant extends to and includes (but is not limited to) development planning, zone changes, resource consents, Consent Authority or Environment Court Applications, Building Consent matters, any other consents, earthworks, developments and general works. The benefit of this covenant applies to any adjoining or neighbouring properties now or hereafter owned by WFH Properties Limited.

9. WFH Properties Limited shall not be liable to pay for or contribute towards the expense of construction or maintenance of any fence between the land and any contiguous land of

WFH Properties Limited but this provision shall not enure for the benefit of any subsequent purchaser or proprietor of the contiguous land.

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.

SCHEDULE "2C"

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