

From: MDCSendmail@mackenzie.govt.nz
Sent: Tue, 22 Nov 2022 19:53:01 +1100 (AEDT)
To: District Plan
Subject: Mackenzie District Council - Submission on Proposed Plan Change to the Mackenzie District Plan
Attachments: covenants.pdf

A new Submission on Proposed Plan Change to the Mackenzie District Plan has been received.

Plan Change Number

Which Plan Change
number?: 21

Details of Applicant

First Name: Grant
Last Name: Payne
Postal Address: 4 Heathfield Drive Mosgiel 9024
Email: info@fourlakes.co.nz
Telephone No: 0274350814
Fax:
Date: 2022-11-22 00:00:00

Customer number (if
known):

Contact person:

Contact person

Telephone No:

Submission Details

The specific
provisions of the
Proposal my LRZ-S1 - Specific Control Area 4
submission relates to
are as follows:

I support / oppose
these provisions: I oppose in part

The reason(s) for my
submission are: With the development of Res 4 lots opposite the Four Lakes development on North West Arch (No's 56-74) these were specifically created and controlled with covenants to maintain the rural feel and maintain the desired spaces and standards. These covenants do not allow for further subdivision or by definition

building within the 10m setback. Including these properties in the plan change only potentially causes confusion, stress and unnecessary expense for owners of these properties.

I seek the following
decision from the
Mackenzie District
Council:

To exclude the mentioned 10 properties from any proposed changes to Specific Control Area 4

I do or do not wish to
be heard in support
of my submission:

I do

If others make a
similar submission I
would or would not
be prepared to
consider presenting a
joint case with them
at any hearing:

I would

Additional
information for this
submission:

See attached covenants

Attach a supporting
document:

covenants.pdf, type application/pdf, 476.1 KB

View Instrument Details



Instrument No 11022678.4
Status Registered
Date & Time Lodged 15 February 2018 16:35
Lodged By Cousins, Susan Kathleen
Instrument Type Easement Instrument



Affected Computer Registers Land District

808073	Canterbury
808074	Canterbury
808075	Canterbury
808076	Canterbury
808077	Canterbury
808078	Canterbury
808079	Canterbury
808080	Canterbury
808081	Canterbury
808082	Canterbury

Annexure Schedule: Contains 6 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

Signature

Signed by Andrew John Anderson as Grantor Representative on 15/02/2018 10:19 AM

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 Andrew John Anderson as Grantee Representative on 15/02/2018 10:19 AM

*** 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

Payne Developments Limited

Grantee

Payne Developments 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 Covenant	All servient tenement	Lot 1 DP 507392 (CFR 808073) Lot 2 DP 507392 (CFR 808074) Lot 3 DP 507392 (CFR 808075) Lot 4 DP 507392 (CFR 808076) Lot 5 DP 507392 (CFR 808077) Lot 6 DP 507392 (CFR 808078) Lot 7 DP 507392 (CFR 808079) Lot 8 DP 507392 (CFR 808080) Lot 9 DP 507392 (CFR 808081) Lot 10 DP 507392 (CFR 808082)	Lot 1 DP 507392 (CFR 808073) Lot 2 DP 507392 (CFR 808074) Lot 3 DP 507392 (CFR 808075) Lot 4 DP 507392 (CFR 808076) Lot 5 DP 507392 (CFR 808077) Lot 6 DP 507392 (CFR 808078) Lot 7 DP 507392 (CFR 808079) Lot 8 DP 507392 (CFR 808080) Lot 9 DP 507392 (CFR 808081) Lot 10 DP 507392 (CFR 808082)

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] [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 _____]

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 _____

Annexure Schedule

1. It is the Grantor's intention to create for the benefit of the Dominant Tenement the land covenants set out below over the Servient Tenement TO THE END that the Servient Tenement shall be bound by the stipulations and restrictions set out below and that the owner and occupier for the time being of the Dominant Tenement may enforce the observance of such stipulations against the owner for the time being of the Servient Tenement.
2. The Grantor and its successors in title covenant and agree with the Grantee and its successors in title as covenants intended to be binding on the relevant servient lands and run with the relevant dominant lands as detailed in the Covenants hereunder. Covenant conditions specified hereunder shall apply in respect of all Covenants.

Covenant 1

1. **General**
 - 1.1. Nothing contained in this agreement shall make it obligatory for the Grantee to enforce any of the covenants contained herein against any other owner of land in the subdivision of which the land forms part for itself or on behalf of any other owner or owners.
 - 1.2. All consents or requirements of the Grantee under the covenants contained herein shall be required to be given only by Payne Developments Limited (which shall not include successors and assigns of Payne Developments Limited for the purposes of this clause) by application in writing to the Grantee PROVIDED THAT no such consents or requirements shall be required or imposed by the Grantee after the 1st April 2035 or the date of winding up of the Grantee whichever date be the earlier but may be enforced amongst the owners of each Lot inter se subject however to the power of the Court to modify or extinguish the same conveyed by Sections 316-318 of the Property Law Act 2007 AND IT IS EXPRESSLY AGREED that such consents and requirements are to be in addition to any such consents or requirements of the relevant Territorial Authority.
2. **Future Development**
 - 2.1. The Grantor shall not oppose or object to, or take any step to frustrate, or take any action or do anything, or encourage any person to object to, or frustrate, or take any action or do anything that might in any way stop or delay or hinder Payne Developments Limited or its assigns from completing any future stages of the subdivision of any land owned by it within 1 kilometre of the land subject to this covenant.
3. **Building Covenants**
 - 3.1. The Grantor will not further subdivide the Servient Tenement, or create unit titles or cross leases in respect of dwellings on the Servient Tenement.
 - 3.2. The Grantor shall not erect or permit to be erected on the Servient Tenement any building structure or other improvement without first submitting the plans and specifications (including details of siting, materials and external finish) of such building structure or improvements to Payne Developments Limited or its nominee

in that regard and obtaining its written approval within 10 working days of submitting the same for approval. The approval will not be withheld if the proposed dwelling:

- (a) Is reasonably sited;
 - (b) Meets the Payne Developments Limited's design concepts;
 - (c) Complements the dwellings on adjoining properties within the subdivision;
 - (d) Does not detract from the normal standard of housing in the subdivision; and
 - (e) Is irregular in shape (not rectangular) and have at least three roof planes if not mono pitch in design.
- 3.3. The Grantor shall not deviate from plans and specifications approved by Payne Developments Limited without the prior written approval of Payne Developments Limited.
- 3.4. The Grantor will erect on the Servient Tenement one only new (not relocatable or relocated) dwelling ("the House") which:
- (a) Comprises a single dwelling with a floor area of at least 140 square metres excluding garaging; and
 - (b) Has garaging for at least two cars whether adjoining the dwelling or as a separate building.
 - (c) Has exterior finishes and colours sympathetic to the style and environment of the district including but not limited to stone, brick, plaster and linea being some of those.

4. **Trees**

- 4.1. The Grantor shall not plant trees on the Servient Tenement in clusters of 4 or more trees or in continuous rows of 4 or more trees and shall ensure that no tree will exceed 8 metres in height when planted and grown to maturity within those clusters or rows. Trees that may exceed 8 metres in height must be planted apart from one another at a greater distance than the expected mature height of the tallest species. Any existing trees on the Servient Tenement at the date of this agreement within 10 metres of any boundary of the Servient Tenement must be maintained at a maximum height of 10 metres or less or be removed.

5. **Completion of Works:**

- 5.1 (a) The Grantor will not permit the Servient Tenement to be occupied or used as a residence unless the dwelling on the Servient Tenement has been substantially completed in accordance with this covenant and the dwelling meets the requirements of the local authority.
- (b) Building on the Servient Tenement commencing within two years of title being issued for the Servient Tenement and completed within three years of the title being issued for the Servient Tenement unless written approval is received from Payne Developments Limited.

- (c) No fence shall be constructed of corrugated iron nor shall any fence exceed 1.80 metres in height above the natural ground level.
- (d) Once construction has been completed the Grantor shall not bring onto or allow to remain on the Servient Tenement any temporary dwelling, caravan, trade vehicle or other equipment and materials unless garaged or screened so as to preserve the amenities of the neighbourhood.
- (e) The Grantor will not permit or suffer any advertisement, sign or hoarding of a commercial nature to be erected on any part of the Servient Tenement without prior consent in writing from Payne Developments Limited.

6. Lot to be kept tidy:

- 6.1. The Grantor shall ensure that as from the date of possession the Servient Tenement (including any public road frontage lot vested in any local or other authority) is kept in a neat and tidy condition free of weeds, noxious plants and debris and is mowed regularly. If, while the Servient Tenement is unoccupied, the Grantor fails to do so the Grantee shall have the right at any time and from time to time to arrange for the Servient Tenement to be cleared of weeds and noxious plants and debris and be mowed and recover its costs of doing so from the owner of the Servient Tenement.

7. Grantor's indemnity for damage:

- 7.1. The Grantor indemnifies the Grantee for any damage caused by the Grantor or the Grantor's building contractors, employees or invitees to any roads, access ways, footpaths, landscape, drainage systems or other structures on any property of the Grantee during the course of construction of any dwelling and shall reinstate the damaged property to the satisfaction of the Grantee.

8. Consequences of breach:

- 8.1 (a) If there should be any breach or non-observance of any of these covenants which continues unremedied for 10 working days after written notice of that breach or non-observance is given to the Grantor by the Grantee or another Grantor for whose benefit these covenants have been required (and without prejudice to any other liability which the Grantor may have to any person having the benefit of this covenant) the Grantor will:
- (i) Pay the Grantee or other person giving notice and jointly if more than one (being a person for whose benefit these covenants have been required) making such demand as liquidated damages the sum of \$1,000.00 plus the sum of \$100.00 per day for every day that such breach or non-observance continues after the date upon which written demand has been made.
 - (ii) Remove or cause to be removed from the Servient Tenement any dwelling-house, garage, building, fence or other structure erected or placed on or adjacent to the Servient Tenement or any trees which are in breach or non-observance of these covenants.
 - (iii) Replace any building materials used in breach or non-observance of the foregoing covenants.

- (b) The Grantee shall not be obliged to or required to enforce all or any of the covenants stipulations and restrictions contained in this agreement nor be liable to any Grantor for any breach by any Grantor of a Servient Tenement comprised in the subdivision.

9. Commencement of Construction by Grantor

- 9.1. Prior to the commencement of any earthworks or construction on the Servient Tenement the Grantor shall construct a driveway consisting of crushed granular metal for the purposes of providing temporary vehicle access during the course of construction and this driveway shall be the only permitted vehicle entrance and exit to the Servient Tenement.

10. No Liability

- 10.1. Neither Payne Developments Limited nor any nominee, delegate, transferee or assignee nor any architect appointed pursuant to these covenants shall be liable to any person in relation to exercise or non-exercise of any power or discretion conferred hereunder if such party has acted in good faith.

11. Discretion

- 11.1. Payne Developments Limited or any nominee or any person or entity to which functions, powers and entitlements under this covenant have been delegated, transferred or assigned may, so long as it is entitled to exercise those functions, powers and entitlements, grant dispensation to the owner of any Servient Tenement in respect of any matter or thing which would otherwise constitute a breach of any covenant or covenants. If any dispensation is granted subject to amendments or conditions, those amendments or conditions must be complied with on an ongoing basis by the owner of the relevant Servient Tenement.

12. Severance

- 12.1. Should any covenant or condition or any part thereof herein be held to be illegal, void, invalid or unenforceable in any respect then that covenant or condition or the relevant part thereof shall be severed and the remaining covenants and conditions or parts thereof shall continue in full force and effect.