

INSTRUMENT CREATING ESPLANADE STRIP

Sections 232 and 235, Resource Management Act 1991

Background

1. (a registered company having unlimited liability) (the "Grantor") is registered as proprietor of the land described in Schedule A (the land).
2. District Council (the "Grantee") is a local authority (within the meaning of the Local Government Act 2002) in whose district the land is located.

Creation of esplanade strip

- 1 The Grantor creates in favour of the Grantee an esplanade strip described in Schedule B (the strip) for the purpose of protecting the natural values associated with the esplanade strip, over the land described in Schedule A (the land) on the following terms.

Covenants

The Grantor and Grantee covenant as follows:

1. The following acts are prohibited on the land:
 - (a) wilfully endangering, disturbing, or annoying a lawful user of the strip (including the owner or occupier of the strip):
 - (b) wilfully damaging or interfering with a structure adjoining or on the land (including a building, fence, gate, stile, marker, bridge, or notice):
 - (c) wilfully interfering with or disturbing livestock lawfully permitted on the strip.
2. The prohibitions in clause 2(b) and (c) do not apply to the owner or occupier of the strip or to employees or agents authorised by the owner or occupier.
3. The following acts are also prohibited on the land over which the strip has been created:
 - (a) lighting a fire:
 - (b) carrying a firearm:
 - (c) discharging or shooting a firearm:
 - (d) camping:
 - (e) taking an animal on to, or having charge of an animal on, the land:

- (f) taking a vehicle on to, or driving or having charge or control of a vehicle on, the land (whether the vehicle is motorised or not);
 - (g) wilfully damaging or removing a plant (unless acting in accordance with the Biosecurity Act 1993);
 - (h) laying poison or setting a snare or trap (unless acting in accordance with the Biosecurity Act 1993).
4. The prohibitions referred to in clause 4(e) to (h) do not apply to the owner or occupier of the strip or to employees or agents authorised by the owner or occupier.
6. Access to the strip is for access purposes. Any person shall have the right at any time to pass and repass over and along the land over which the strip has been created, subject to any other provisions of this easement instrument.
7. The strip may be closed to public access at the following times for the following purposes:
- (a) during the periods of lambing, calving or birth period of any other animal farmed from time to time on the land of which the strip forms a part ;
 - (b) during any period in which the local council or any other person having authority under the Forest & Rural Fires Act 1977 (or any Act passed in substitution for that Act) has instituted a ban on open fires;
 - (c) during the periods in which there is the carrying on of pruning or harvesting of trees or any other thing grown or cultivated on the parcel of land of which the strip forms a part;
 - (d) any other time when, in the opinion of the Grantor, there may be a danger posed to the users of the access strip or a danger posed to any stock, trees or any other thing grown or cultivated on the parcel of land of which the strip forms a part; or
 - (e) during periods of emergency or public risk likely to cause loss of life, injury, or serious damage to property.
8. Responsibility for notifying the public that the strip is closed to public access at those times referred to in clause 7 (a) to (d) is the responsibility of the Grantor (notification will be given by erecting signs at all entry points to the strip).
9. Responsibility for notifying the public that the strip is closed to public access at those times referred to in clause 7 (e) is the responsibility of the Grantee (notification will be

given by erecting signs at all entry points to the strip and by any other means that the Grantee deems appropriate).

Signed by Grantee) by its directors _____
Director Director

Executed by Grantee by common seal or by 2 officers, as provided by the territorial authority's rules

Date
.....

Schedule A
Lots 1 and 2, Deposited Plan _____ being land contained in certificates of title _____ and

Schedule B
Easement is 20 metres in width, on the boundary with the _____ River and marked on _____

IN THE MATTER of an Instrument entered into pursuant to Section 232 of the Resource Management Act 1991 to create an esplanade strip

1. Recitals

1.1 ("the Grantor") is registered as proprietor of the land described in Schedule A hereto ("the land").

1.2 **DISTRICT COUNCIL** ("the Grantee") is a local authority (within the meaning of the Local Government Act 2002) in whose district the land is located.

2. Creation of Esplanade Strip

2.1 The Grantor creates in favour of the Grantee an esplanade strip described in Schedule B hereto ("the strip") to:

- (a) enable public access to and along the River and the Stream;
- (b) protect conservation values by protecting the natural values associated with the intended esplanade strip;
- (c) enable public recreational use of the intended esplanade strip over and in respect of the strip.

3. Covenants

3.1 The Grantor and the Grantee covenant :

3.2 The following acts are prohibited on the strip :

- (a) Wilfully endangering, disturbing, or annoying a lawful user (including the owner or occupier of the strip);
- (b) Wilfully damaging or interfering with any structure adjoining or on the land (including a building, fence, gate, stile, marker, bridge or notice);
- (c) Wilfully interfering with or disturbing any livestock lawfully permitted on the strip.

3.3 The prohibitions referred to in paragraphs 3.2 (b) and (c) above do not apply to the owner or occupier of the strip or to employees or agents authorised by the owner or occupier.

3.4 The following acts are also prohibited on the land over which the strip has been created:

- (a) Lighting a fire;
- (b) Carrying a firearm;
- (c) Discharging or shooting a firearm;
- (d) Camping;
- (e) Taking any animal onto, or having charge of any animal on, the land;
- (f) Taking a vehicle onto, or driving or having charge or control of a vehicle on, the land (whether the vehicle is motorised or not);

- (g) Wilfully damaging or removing a plant (unless acting in accordance with the Biosecurity Act 1993);
- (h) Laying poison or setting a snare or trap (unless acting in accordance with the Biosecurity Act 1993).

3.5 The prohibitions referred to in paragraphs 3.4 (a) to (h) above do not apply to the owner or occupier of the strip PROVIDED HOWEVER that the owner or occupier of the strip shall not wilfully damage or remove any native trees growing on the strip which are greater than 2 metres in height.

3.6 Access to the Strip

Any person shall have the right at any time to enter upon the strip and to remain thereon for any period of time for the purpose of this instrument provided always that the strip shall be closed to public access at the following times:

- (a) During New Zealand daylight time 8.00pm to 6.00am; and
- (b) During New Zealand standard time 6.00pm to 7.00am.

DATED this

SIGNED by the said

THE COMMON SEAL OF THE)
)
 was hereto affixed this)
 day of _____ in the)
 presence of _____)

Council Secretary

SCHEDULE A

The lands in Certificates of Title

SCHEDULE B

The areas of land being:

- (i) The strip of land 20 metres wide running parallel and adjacent to the right bank of the _____ Stream and the right bank of the _____ River as such banks are within the Grantors' properties being Lots _____ on Deposited Plan _____; and
- (ii) The area of land comprising _____ hectares more or less being that part of _____ on Deposited Plan _____ (excluding the land contained in Schedule B(i) above) which is shown on the plan as an extension of the esplanade strip adjoining the confluence of the _____ Stream with the _____ River

to the intent that this instrument shall have effect in perpetuity.

ESPLANADE STRIP INSTRUMENT

Correct for the Purposes
of the Land Transfer Act

Solicitor for the

"the Grantor"

"the Grantee"

Particulars entered in the Register as shown herein on the
date and at the time endorsed below

.....
Assistant/District Land Registrar

INSTRUMENT CREATING ESPLANADE STRIP
Sections 232 and 235, Resource Management Act 1991

Background:

- 1.1 and (“the Grantors”) are registered as proprietors of the land described in the Schedule A hereto (“the land”).
- 1.2 The Council (“the Grantee”) is a local authority (within the meaning of the Local Government Act 2002) in whose district the land is located.

2. Creation of the esplanade strip:

The Grantors create in favour of the Grantee an esplanade strip described in Schedule B (the strip) for the purpose(s) of recreational access and conservation over the land described in Schedule A (the land) on the following terms.

3. Covenants:

The Grantors and the Grantee covenant that:

- 3.1 The following acts are prohibited on the strip:
- (a) Wilfully endangering, disturbing or annoying a lawful user of the strip (including the owner or occupier) of the strip:
 - (b) Wilfully damaging or interfering with any structure adjoining or on the land including a building, fence, gate, stile, marker, bridge or notice:
 - (c) Wilfully interfering with or disturbing any livestock lawfully permitted on the strip.

The prohibitions referred to in clauses (b) and (c) above do not apply to the owner or occupier of the land.

- 3.2 The following further acts are prohibited on the strip unless permission has been specifically granted by the Grantee either directly, in writing or through official signage:
- (a) Lighting any fire:
 - (b) Carrying any firearm:
 - (c) Discharging or shooting any firearm:
 - (d) Camping:
 - (e) Taking any animal on to, or having charge of any animal on, the land:
 - (f) Taking any motorised vehicle onto, or driving or having any charge or control of any motorised vehicle on, the land:
 - (g) Wilfully damaging or removing a plant (unless acting in accordance with the Noxious Plants Act 1978 or the Biosecurity Act 1993):
 - (h) Laying any poison or setting any snare or trap (unless acting in accordance with the Agricultural Pest Destruction Act 1967 and Biosecurity Act 1993):
 - (i) Being on the land during the hours of darkness.

The prohibitions referred to paragraphs (a) to (j) above do not apply to the owner or occupier of the strip, or the Grantee.

- 3.3 The Grantee shall at the Grantee's sole cost be entitled to:
- (a) Build a pathway along the strip; and
 - (b) Plant out the strip for riparian margin management and ecological purposes; as determined by the Grantee.
- 3.4 The Grantor and Grantee shall be responsible in equal shares for erecting a standard post and batten boundary fence along the boundary of the strip. In the event for any reason the Grantee requires a fence having specifications in excess of a standard farm boundary fence then any additional costs of such fence shall be met by the Grantee.
- 3.5 The Grantee may at the Grantee's discretion provide stiles where fences cross the strip. The responsibility (including costs) for providing such stiles should be borne by the Grantee.
- 3.6 Any person shall have the right to pass and re-pass over and along the strip between dawn and dusk except as specified in (a) and (b) below:
- (a) All persons using the strip that does not contain a walkway formed or marked by the Grantee must advise the Grantors concerned prior to use.
 - (b) The strip may be closed to public access by the Grantors during lambing/calving times and when a hazard to people using the strip is present including, however not limited to, tree-felling, blasting, earthmoving, pest control operations, land instability, flooding and flood damage.

NB: Any person contravening these provisions is committing an offence and is liable to prosecution under the Resource Management Act 1991.

Dated this _____ day of _____ 2008.

Signed by and in
the presence of:

The Common Seal of the _____
_____ was
hereby affixed in the presence of:

_____ Mayor

_____ Chief Executive

SCHEDULE A

..... hectares more or less being Lot Deposited Plan

SCHEDULE B

Esplanade Strip 20 metres in width along the left bank of theStream within Lot
Deposited Plan