

Lot 38

Approved by Registrar-General of Land under No. 2002/1026

**Transfer instrument**  
Section 90, Land Transfer Act 1952

Land registration district

**SOUTH AUCKLAND**



**T 6959587.1 Transfer**

Cpy - 01/04, Pgs - 009, 21/07/06, 15:38



DocID: 611563779

Unique identifier(s)  
or C/T(s)

All/part

Area/description of part or stratum

276114

**All**

Transferor

*Surname(s) must be underlined or in CAPITALS.*

**Durham Property Investments Limited**

Transferee

*Surname(s) must be underlined or in CAPITALS.*

**Alexander Torteli, Joan Margaret Torteli and G I Finlay Trustees Limited**

Estate or interest to be transferred, or easement(s) or *profit(s) à prendre* to be created  
State if fencing covenant imposed.

**Fee simple subject to the land and fencing covenants contained in Schedule B of the Annexure Schedule**

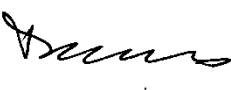
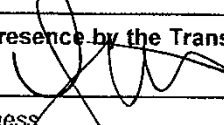
Operative clause

**The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or *profit à prendre* is described above, that easement or *profit à prendre* is granted or created.**

Dated this 13<sup>th</sup> day of

July 2006

Attestation (If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule).

<b>Durham Property Investments Ltd</b> by its attorney <b>Peter Albertus Theodorus Maria Kemps</b>  	<b>Signed in my presence by the Transferor</b>  	
	Signature of witness	
<b>Signature [common seal] of Transferor</b>	Witness to complete in BLOCK letters (unless legibly printed) Witness name	
	Occupation	Kathleen Lynette Smith Legal Executive Kemps Lawyers Auckland
	Address	

Certified correct for the purposes of the Land Transfer Act 1952.

  
(Solicitor for] the Transferee

**Annexure Schedule**

Insert type of instrument

"Mortgage", "Transfer", "Lease" etc

Transfer

Dated

Page 1 of 6 Pages



(Continue in additional Annexure Schedule, if required.)

**INTRODUCTION**

- A. Durham Property Investments Limited is the registered proprietor of all of the lots described in Schedule A.
- B. It is Durham's intention to create for the benefit of the Lots the land covenants contained in Schedule B of this Annexure Schedule until 10 April 2024, at which date the covenants shall expire.
- C. The Transferee for itself, its respective heirs, executors, administrators and assigns and the registered proprietor or proprietors for the time being of the Lot HEREBY COVENANTS with Durham for the benefit of each and any other registered proprietor or proprietors for the time being of each of the Lots (excluding the Lot) to observe and perform the covenants contained in this document.
- D. The Transferee and its respective heirs, executors, administrators and assignees shall only be liable for breaches of the covenants which occur whilst it is the registered proprietor of the Lot.
- E. Durham reserves the right to dispose of any of the Lots free from all or any of these covenants.

**Definitions**

In all of these covenants, the following definitions shall apply:

"Council" means the Western Bay of Plenty District Council.

"Durham" means Durham Property Investments Limited.

"Lot" means the property described in the Identifier/Certificate of Title panel on the front page of this Transfer.

"Lots" means the properties described in Schedule A of this Transfer.

"Subdivision" means the development comprising the Lots.

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**

Insert type of instrument

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Transfer

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(Continue in additional Annexure Schedule, if required.)

**SCHEDULE A**

Lots 1 to 70 (inclusive) and 73 to 84 (inclusive) on Deposited Plan 367979

Lot No.	CT No.	Lot No.	CT No.	Lot No.	CT No.
1	276077	30	276106	59	276135
2	276078	31	276107	60	276136
3	276079	32	276108	61	276137
4	276080	33	276109	62	276138
5	276081	34	276110	63	276139
6	276082	35	276111	64	276140
7	276083	36	276112	65	276141
8	276084	37	276113	66	276142
9	276085	38	276114	67	276143
10	276086	39	276115	68	276144
11	276087	40	276116	69	276145
12	276088	41	276117	70	276146
13	276089	42	276118	73	276147
14	276090	43	276119	74	276148
15	276091	44	276120	75	276149
16	276092	45	276121	76	276150
17	276093	46	276122	77	276151
18	276094	47	276123	78	276152
19	276095	48	276124	79	276153
20	276096	49	276125	80	276154
21	276097	50	276126	81	276155
22	276098	51	276127	82	276156
23	276099	52	276128	83	276157
24	276100	53	276129	84	276158
25	276101	54	276130		
26	276102	55	276131		
27	276103	56	276132		
28	276104	57	276133		
29	276105	58	276134		

**SCHEDULE B****Covenants by Transferee**

The Transferee, subject to the qualifications contained in these covenants, shall:

**1. New Dwelling**

Not erect or permit to be erected or place or permit to be placed on the Lot any buildings other than a single new (and not second-hand) dwellinghouse with a minimum covered floor area (excluding garaging) of 140sqm.

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(Continue in additional Annexure Schedule, if required.)

**2. No Subdivision**

Not subdivide the Lot or create a Unit title or cross lease in respect of dwellings on the Lot.

**3. Plans / Specifications**

Not to commence any work on the Lot until the Transferee has:

- (a) First provided to Durham a full copy of the plans and specifications proposed to be lodged with the Council for the new dwelling; and
- (b) Obtained from Durham written approval of those plans and specifications.

Note: Durham shall not withhold its approval of the Transferee's plans and specifications if:

- (a) The Transferee has complied with all of the covenants contained in this Schedule B; and;
- (b) The proposed dwelling:
  - (i) is reasonably sited;
  - (ii) meets Durham's design concepts;
  - (iii) complements adjoining properties in the Subdivision; and
  - (iv) does not detract from the normal standard of housing in the Subdivision.

- 4. Not deviate from plans and specifications approved by Durham without the prior written approval of Durham.

**5. Materials / Specifications**

Satisfy the following criteria in order for their plans and specifications to be approved by Durham:

- (a) A minimum of 85% of the exterior cladding of the dwelling must consist of any of the following materials:
  - (i) glazing;
  - (ii) kiln fired or concrete brick;
  - (iii) stucco or solid plaster;
  - (iv) textured finish stone;
  - (v) timber;
  - (vi) pre-primed fibre cement weatherboards having a maximum finished width not exceeding 180mm;
  - (vii) pre-finished metal weatherboard bonded to solid timber boards (ie. Lockwood type construction).
- (b) Weatherboard detailing shall include, as the preferred design, traditional box and scribe treatments to corners and windows in conjunction with appropriate use of colour.
- (c) Any proposed dwelling with an exterior finish in the form of flat cladding, concrete block, poured concrete or similar shall have the surface of such materials textured in such a manner as to fully cover the base material.

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**Annexure Schedule**



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*(Continue in additional Annexure Schedule, if required.)*

- (d) Any proposed dwelling to be constructed with a basement or sub-floor space shall have the basement or sub-floor area sheathed with cladding complying with Durham's specifications for exterior cladding.
- (e) The proposed dwelling shall have more than two hips or two gables in the roofline.
- (f) Any metal roof cladding must have a pre-finished factory colour.
- (g) Any proposed dwelling shall include either an attached or separate fully enclosed garage not less than 36 square metres and, such garaging to be constructed and completed at the same time as the construction and completion of the dwelling and in the same materials and architectural design as the proposed dwelling.
- 6. Completion Of Works Before Occupation**  
Not permit the Lot to be occupied or used as a residence unless the dwelling on the Lot has been substantially completed and the dwelling meets the requirements of the Council.
- 7. Completion of Exterior**  
Not leave the exterior of any dwelling on the Lot incomplete longer than twelve months from the laying down of the foundations for the dwelling.
- 8. Vehicle Access**  
Fully construct the vehicle access to any dwelling in a permanent surface of concrete, concrete block or brick paving or tarsealing and such surfacing is to be carried out in a proper and tradesman-like manner within twelve months of laying down the foundations of the dwelling.
- 9. Paths**  
Fully construct any paths on the Lot in permanent materials with all unpaved areas to be properly grassed and landscaped within twelve months of laying down the foundations of the dwelling.
- 10. Clothesline/Letterbox**  
Construct any clothesline and letterbox on the Lot within twelve months of laying down the foundations of the dwelling, such design construction and location to be aesthetically sensitive and the clothesline shall not be highly visible from the access lot or road reserve (as the case may be) serving the Lot.
- 11. Fencing**  
Notwithstanding the terms or provisions of the Fencing Act 1978, not erect any fence or fences on the Lot unless such fence or fences comply in full with the following criteria:
  - (a) No fence shall be constructed in corrugated iron or post and wire materials;
  - (b) No fence shall exceed a maximum height of 1.83 metres measured vertically from the natural ground level at the relevant point in the Lot where the fence is erected.
- 12.** Not call upon Durham to pay for or contribute towards the expense of erection or maintenance of any fence between the Lot and any adjoining land owned by Durham but this covenant shall not enure for the benefit of any subsequent purchaser from Durham of that adjoining land.

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*[Handwritten signatures and initials]*

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**13. Reinstatement for Damage**

Reinstate, replace and be responsible for all costs arising from damage to the landscape, roading, footpaths, curbs, concrete or other structures in the subdivision arising from the Transferee's use of the Lot directly or indirectly through the Transferee's agents or invitees.

**14. Construction Buildings/Vehicles**

Once construction of the dwelling on the Lot has been completed, not bring on to or allow to remain on the Lot any temporary dwelling, caravan, trade vehicle or other equipment and materials unless garaged or screened so as to preserve the amenities of the neighbourhood.

**15. Advertising**

Not permit or suffer any advertisement, sign or hoarding of a commercial nature to be erected on any part of the Lot without prior consent in writing from Durham.

**16. Lot To Be Kept Tidy**

Ensure that from the date that possession is taken of the Lot, while the Lot remains unoccupied, the Lot is kept free of weeds and noxious plants and debris and is mowed regularly and if the Transferee fails to do so Durham shall have the right at any time and from time to time to arrange for the Lot to be cleared of weeds and noxious plants and debris and mowed in which event the Transferee shall pay Durham on demand the costs incurred by Durham together with interest calculated at the rate of 20% per annum on such costs from the date they arise.

**17. Consequences Of Breach**

(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 Transferee by Durham or another Transferee for whose benefit these covenants have been imposed, (and without prejudice to any other liability which the Transferee may have to any person having the benefit of this covenant) the Transferee will:

- (i) Pay Durham or other person giving notice and jointly if more than one (being a person for whose benefit these covenants have been imposed), making such demand as liquidated damages the sum of \$10,000.00 plus the sum of \$200.00 per day for every day that such breach or non-observance continues after the date upon which written demand has been made; and
- (ii) Remove or cause to be removed from the Lot any dwelling-house, garage, building, fence or other structure erected or placed on or adjacent to the Lot in breach or non-observance of these covenants; and
- (iii) Replace any building materials used in breach or non-observance of the foregoing covenants.

(b) Not oblige or require Durham to enforce all or any of the covenants stipulations and restrictions contained in this Schedule nor seek to impose any liability on Durham to the Transferee or other owner for any breach by any transferee of one of the Lots comprised in the Subdivision.

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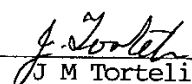
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(Continue in additional Annexure Schedule, if required.)


- (c) If any breach or non-observance continues for 20 working days after written notice of that breach or non-observance is given to the Transferee by Durham or other person, Durham or other person may (together with its agents, employees and contractors) enter onto the Lot and arrange for rectification of the Transferee's default and all costs incurred by Durham or other person shall constitute a debt due.

Signed in my presence by the Transferee:  
Alexander Torteli and Joan Margaret  
Torteli

  
A Torteli

  
J M Torteli

Witness:


Signature: 


Witness Name: Wendy Watson

Occupation: Legal Executive  
Tauranga

Address: /

Signed in my presence by the Transferee:  
G I Finlay Trustees Limited

  
(Director)

Witness: Signature:   
Witness Name: Cheryl Thompson  
Occupation: Accounts Technician  
Address: 123 College Mall  
Tauranga

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**CERTIFICATE OF NON REVOCATION OF POWER OF ATTORNEY**

I **PETER ALBERTUS THEODORUS MARIA KEMPS** of Auckland, Solicitor, certify that:


1. By deed dated 11th May 1998 **DURHAM PROPERTY INVESTMENTS LIMITED** of Hastings ("Appointer") appointed me as its attorney on the terms and subject to the conditions set out in that deed a copy of which is deposited at the Land Transfer Office at:

Wellington under No. B.739832.1  
South Auckland under No. B499200.1  
Hawkes Bay under No.713111.1

2. At the date of this certificate, I have not received any notice or advice of the revocation of that appointment, by any means whatsoever.

Date:

18 July 2006



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(Attorney)



Landonline User ID: HAMILTONLSHA

HEREWITH

Dealing / SUD Number:  
(LINZ Use only)

**T 6959587.1 Transfer**

LODGING FIRM: HAMILTON LEGAL SERVICES LTD

Survey Plan (#)

Cpy - 03/04, Pgs - 009, 21/07/06, 15:38

Address: DX GP20013

Title Plan (#)

Priority Barcode/Date Stamp  
(LINZ Use only)

HAMILTON

Traverse Sheets (#)

**Copies**  
(Inc. original)

PH 0800 77 66 88

Field Notes (#)

DocID: 511668779

Uplifting Box Number: 19

Calc Sheets (#)

ASSOCIATED FIRM:

Survey Report

Plan Number Pre-Allocated or  
to be deposited

Client Code / Ref: 429814/11 TORTELL FTRUST

158646-1440

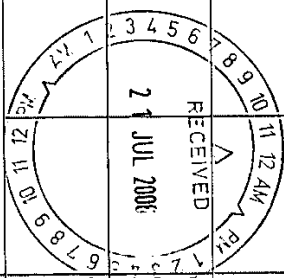
Rejected Dealing Number

Other (state)

Priority Order	CT Ref:	Type of Instrument	Name of Parties	DOCUMENT OR SURVEY FEES	MULTI TITLE FEES	NOTICES	ADVERTISING	NEW TITLES	OTHER	RESUBMISSION PRIORITY FEE	FEES \$ GST INCLUSIVE
1	276114	T	DURHAM PROPERTY to TORTELL & GI FINLAY TRUSTEE	50.00							50.00
2											
3											
4											
5											
6											

Land Information New Zealand Lodgement Form

Annotations (LINZ use only)



Fees Receipt and Tax Invoice

GST Registered Number 17-022-895

LINZ Form P005

LINZ Form P005 - PDF

Original Signatures? \_\_\_\_\_

Less Fees paid on Dealing #

Subtotal (for this page)

Total for this dealing

Debit my Account for

Version 1.6: 15 March 2004