

Approved by Registrar-General of Land under No. 2002/6055

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

Land registration district

SOUTH AUCKLAND



EI 7483230.7 Easement

Cpy - 01/01, Pgs - 009, 30/07/07, 12:10



DocID: 611749099

Grantor

Surname(s) must

Durham Property Investments Limited

Grantee

Surname(s) must be underlined or in CAPITALS.

Durham Property Investments Limited

Grant* of easement or profit à prendre or creation or 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).

Dated this 22nd day of June 2007

Attestation

 Durham Property Investments Ltd by its attorney Peter Albertus Theodorus Maria Kemps	Signed in my presence by the Grantor
	Signature of witness Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation Stuart Jason Weir Partner KempsWeir Lawyers Auckland Address
Signature [common seal] of Grantor	

 Durham Property Investments Ltd by its attorney Peter Albertus Theodorus Maria Kemps	Signed in my presence by the Grantee
	Signature of witness Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation Stuart Jason Weir Partner KempsWeir Lawyers Auckland Address
Signature [common seal] of Grantee	

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

[Solicitor for] the Grantee

*If the consent of any person is required for the grant, the specified consent form must be used.

REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY



Dated

22 June 2007

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(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, <i>profit</i> , or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Land Covenants set out in Schedule B	Refer Annexure Schedule	Refer Annexure Schedule	Refer Annexure Schedule

Delete phrases in [] and insert memorandum number as required.
Continue in additional Annexure Schedule if required.

~~[the provisions set out in Annexure Schedule 2].~~

Delete phrases in [] and insert memorandum number as required.
Continue in additional Annexure Schedule if required.

[Annexure Schedule 2].

All signing parties and either their witnesses or solicitors must sign or initial in this box

Annexure Schedule

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

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(Continue in additional Annexure Schedule, if required.)

SCHEDULE A

Purpose (nature and extent) of easement, profit, or covenant)	Shown (plan reference)	Servient Tenement (Identifier/CT)	Dominant Tenement (Identifier/CT)
Land Covenants set out in Schedule B	DP381050	71 (324386) 85 (324387) 86 (324388) 87 (324389) 88 (324390) 89 (324391) 90 (324392) 91 (324393) 93 (324395) 94 (324396) 95 (324397) 96 (324398) 97 (324399) 98 (324400) 99 (324401) 100 (324402) 101 (324403) 102 (324404) 103 (324405) 104 (324406) 105 (324407) 106 (324408) 107 (324409) 108 (324410) 109 (324411) 110 (324412) 111 (324413) 112 (324414) 113 (324415) 114 (324416) 115 (324417) 116 (324418) 117 (324419) 118 (324420) 119 (324421) 120 (324422) 121 (324423) 125 (324424) 126 (324425)	71 (324386) 85 (324387) 86 (324388) 87 (324389) 88 (324390) 89 (324391) 90 (324392) 91 (324393) 93 (324395) 94 (324396) 95 (324397) 96 (324398) 97 (324399) 98 (324400) 99 (324401) 100 (324402) 101 (324403) 102 (324404) 103 (324405) 104 (324406) 105 (324407) 106 (324408) 107 (324409) 108 (324410) 109 (324411) 110 (324412) 111 (324413) 112 (324414) 113 (324415) 114 (324416) 115 (324417) 116 (324418) 117 (324419) 118 (324420) 119 (324421) 120 (324422) 121 (324423) 125 (324424) 126 (324425)

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



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INTRODUCTION

1. Covenant

The Grantor covenants and agrees with the intention to bind itself and future proprietors of the Servient Tenements for the benefit of the Grantee and future proprietors of the Dominant Tenements that the Grantor will at all times observe and perform the restrictions contained in Schedule B to the intent that each of the restrictions will be until 10 April 2024 when they shall expire appurtenant to the Dominant Tenements.

2. Limited Liability

The Grantor and its successors in title will only be liable for breaches of the restrictions which occur while they are registered proprietor of the Servient Tenements.

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 one of the Servient Tenements.

"Lots" means all of the Servient Tenements described in Schedule A.

"Subdivision" means the development comprising the Lots.

SCHEDULE B

Covenants by Grantor

The Grantor, subject to the qualifications contained in these covenants, will:

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.

2. No Subdivision

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

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Annexure Schedule



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(Continue in additional Annexure Schedule, if required.)

3. Plans / Specifications

Not to commence any work on the Lot until the Grantor 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 Grantor's plans and specifications if:

- (a) The Grantor 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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- (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) Any metal roof cladding must have a pre-finished factory colour.
- (f) 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.

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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.
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 Grantor's use of the Lot directly or indirectly through the Grantor'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 Subdivision.
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 Grantor 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 Grantor 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 Grantor by Durham or another Grantee for whose benefit these covenants have been imposed, (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 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, garage, building, fence or other structure erected or placed on or adjacent to the Lot in breach or non-observance of these covenants; and

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- (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 Grantee or other owner for any breach by any Grantor of one of the Lots comprised in the Subdivision.
- (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 Grantor 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 Grantor's default and all costs incurred by Durham or other person shall constitute a debt due.

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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: 22nd June 2007



(Attorney)

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