

LAND COVENANTS & CONSENT NOTICES



SUE & DAMIEN

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OWN
REAL ESTATE

Owners committee covenants for all lots

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

Land registration district

NORTH AUCKLAND



Grantor

Surname(s) must be underlined or in CAPITALS.

Peter Frederick RUDELL, Kristine Joy RUDELL and Michael Jeremy BADHAM

Grantee

Surname(s) must be underlined or in CAPITALS.

Peter Frederick RUDELL, Kristine Joy RUDELL and Michael Jeremy BADHAM

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 day of

Attestation

	Signed in my presence by the Grantor
	_____ <i>Signature of witness</i>
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name
Signature [common seal] of Grantor	Occupation
	Address
	Signed in my presence by the Grantee
	_____ <i>Signature of witness</i>
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name
	Occupation
	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.

Annexure Schedule 1

Easement instrument

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Schedule A

(Continue in additional Annexure Schedule if required.)

Purpose (nature and extent) of easement, profit, or covenant	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant tenement (Identifier/CT or in gross)
Land Covenant		CT 239064 CT 239065 CT 239066 CT 239067 CT 239068 CT 239069 CT 239070 CT 239071	CT 239064 CT 239065 CT 239066 CT 239067 CT 239068 CT 239069 CT 239070 CT 239071

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 specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 1952.~~

The implied rights and powers are ~~[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 2].~~

Covenant provisions

Delete phrases in [] and insert memorandum number as required.

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 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.)

FIRST SCHEDULE

THE COVENANTS

1. INTRODUCTION

- 1.1 The Grantor is the registered proprietor of the land contained within the Development.
- 1.2 The Grantor wishes to regulate the management and maintenance of Common Facilities within the Development in accordance with the covenants set out in this instrument ("the Covenants").
- 1.3 The Grantor covenants and agrees with the intention to bind itself and future Owners of the Servient Lots for the benefit of the Grantee and future Owners of the Dominant Lots that the Grantor shall always observe and perform all of the Covenants to the end and intent that each of the Covenants shall forever enure for the benefit of and be appurtenant to each and all of the Dominant Lots and the Owners for the time being of the Dominant Lots.

2. DEFINITIONS AND INTERPRETATION

Definitions

- 2.1 The following words shall have the following meanings in this instrument:

"Common Facilities" means the facilities described in the second schedule and any other facilities within the Development which the Owners Committee resolves under clause 3.3 should be treated as Common Facilities.

"Default Interest Rate" means 20 per cent per annum.

"Developer" means Peter Frederick Ruddell, Kristine Joy Ruddell and Michael Jeremy Badham (as trustees of the Ruddell Millenium Trust) or their nominated successor.

"Development" means the Developer's subdivision of the land formerly comprised in Certificate of Title 164943 (North Auckland Registry) into residential lots and a wetland area as shown on Deposited Plan 358730.

"Dominant Lots" means each Certificate of Title described in the column titled "dominant tenement" in Schedule A of Annexure Schedule 1 of this Instrument.

"Driveway" means:

- (a) The driveway established for the purposes of the rights-of-way marked "A, AA, B, AB, C, AC, K, W, X, Q, AG, AF, D, E and G" on DP 358730;
- (b) Street lighting and security systems located along the driveway referred to in paragraph (a) above;
- (c) Stone walls located on the western side of the driveway referred to in paragraph (a) above; and

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- (d) Security gates, street lighting, security systems, landscaping and other entrance features located at the entrance to the Development on Lot 6 DP 358730.

"Driveway Costs" means any costs and expenses properly or reasonably assessed or assessable paid or payable or otherwise incurred in respect of the maintenance, operation and administration of the Driveway.

"Expense Year" means each 12 month period commencing on 1 April and ending on 31 March, and includes any broken period commencing on the date of establishment of the Owners Committee and ending on the 31 March next following.

"Lots" means each of the Dominant Lots and Servient Lots.

"Operating Expenses" means any costs and expenses properly or reasonably assessed or assessable paid or payable or otherwise incurred in respect of the maintenance, operation and administration of the Common Facilities (except the Driveway).

"Owner" means the registered proprietor of a Lot.

"Owners Committee" means a quorum of Owners.

"Owners' Resolution" means a resolution passed by an Owners Committee.

"Servient Lots" means each Certificate of Title described in the column titled "servient tenement" in Schedule A of Annexure Schedule 1 of this Instrument.

"Special resolution" means a resolution approved by 75 percent of Owners entitled to vote.

"Wetland Procedures Manual" means the document of that name compiled by the Developer, as may be amended by the Owners Committee from time to time in accordance with clause 3.5.

"working day" means any day except:

- (a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, Waitangi Day and the Northland Provincial Anniversary Day; and
- (b) A day in the period commencing with the 24th day of December in any year and ending with the 5th day of January in the following year.

Interpretation

2.2 For the purpose of the interpretation and construction of this instrument:

- (a) Words in the singular shall include the plural and visa versa;
- (b) Headings have been inserted for convenience and therefore should not effect the interpretation of this instrument;
- (c) Words denoting individuals include corporations and vice versa;
- (d) A reference to a party includes that party's successors, assigns, executors and administrators;

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- (e) Reference to a statute includes all statutes amending, consolidating or replacing the statute and to any regulation order and notice made under the statute.

3. ROLE OF THE OWNERS COMMITTEE

3.1 The Owners Committee shall manage the Common Facilities in accordance with these Covenants.

3.2 The Owners Committee shall be entitled, subject to any limitations hereinafter set out:

- (a) To manage, maintain and develop the Common Facilities;
- (b) To carry out such works, repairs, renovations, landscaping, replacements and improvements on the Common Facilities as they may deem desirable and necessary for the general benefit of the Dominant Lots and to maintain and preserve the Common Facilities;
- (c) To carry out yearly dam inspections and reporting in relation to the dam on Lot 9 DP 358730 and perform all work required to comply with the resource consent obtained for the dam;
- (d) Without limiting the above, to perform all work required to comply with any Queen Elizabeth II National Trust Covenant and/or Wetland Procedures Manual in place in relation to the wetland area comprised in Lot 9 DP 358730;
- (e) To establish and to establish measures to enforce, rules and bylaws with respect to the management, maintenance and development of the Common Facilities;
- (f) To engage employees or independent contractors on such terms as the Grantees think fit to manage, maintain and develop the Common Facilities;

provided always that in carrying out their operations the Owners Committee shall ensure that they do not interfere with the quiet use or enjoyment of the Common Facilities by the Owners save as is necessary to carry out those operations.

3.3 The Owners Committee may from time to time by Special Resolution resolve that additional facilities within the Development should become part of the Common Facilities.

3.4 The Owners Committee may from time to time by Special Resolution make rules and bylaws with respect to the management, maintenance and development of the Common Facilities.

3.5 The Owners Committee may from time to time by Special Resolution make amendments to, or issue revised versions of, the Wetland Procedures Manual.

4. MAINTENANCE AND ADMINISTRATION CHARGES

4.1 The cost of maintaining, operating and administering the Common Facilities (except the Driveway) shall be borne by the Owners from time to time in equal proportions PROVIDED HOWEVER that where the need for maintenance or operation is directly attributable to actions of one of the Owners or their servants, tenants, agents, contractors, workmen, licensees or invitees the cost shall in that case be borne by that Owner.

4.2 The cost of maintaining, operating and administering the Driveway shall be borne by the Owners from time to time in the following proportions PROVIDED HOWEVER that where the need for maintenance or operation is

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directly attributable to actions of one of the Owners or their servants, tenants, agents, contractors, workmen, licensees or invitees the cost shall in that case be borne by that Owner:

Description of part of Driveway (as shown on DP 358730 where applicable)	Lot 1 percentage	Lot 2 percentage	Lot 3 percentage	Lot 4 percentage	Lot 5 percentage	Lot 6 percentage	Lot 7 percentage	Lot 8 percentage
Shown A, AA; security gates, landscaping and entrance features at entrance to Development; street lighting and security systems located at entrance and along Driveway; stone walls located on western side of Driveway	12.5	12.5	12.5	12.5	12.5	12.5	12.5	12.5
Shown K, W	33.3	33.3	33.4	-	-	-	-	-
Shown X	-	50	50	-	-	-	-	-
Shown Q, AG, AF	-	20	80	-	-	-	-	-
Shown B, AB	-	-	-	20	20	20	20	20
Shown E, G	-	-	-	-	-	-	50	50
Shown C, AC	-	-	-	-	25	25	25	25
Shown D	-	-	-	-	-	33.3	33.3	33.4

- 4.3 The Owners Committee may from time to time charge such levies on Owners as shall be necessary for the general maintenance, operation and administration of the Common Facilities and Driveway with such levies to be apportioned between Owners in accordance with clauses 4.1 and 4.2 above.
- 4.4 Prior to, or as soon as practicable after the commencement of each Expense Year, the Owners Committee shall by written notice advise each Owner of the estimate ("the Estimate") of each Owner's proportion of the Operating Expenses and Driveway Costs for that Expense Year plus such contingency sum as the Owners Committee shall, in its sole discretion, fix.
- 4.5 Subject to clause 4.6 each Owner (and where there is more than one Owner for a Lot each Owner of the Lot will be jointly and severally liable) shall on the date nominated by the Owners Committee pay the Estimate applicable to that Owner for that Expense Year. Payment shall be made by the Owner in the manner set by the Owners Committee.

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4.6 As soon as practicable after each Expense Year the Owners Committee shall provide to each Owner an itemised account of the actual Operating Expenses and Driveway Costs for the previous Expense Year. If an Owner's proportion of actual Operating Expenses and Driveway Costs for the previous Expense Year is greater than the amount paid by the Owners pursuant to clause 4.5 or clause 4.7(c) as appropriate, the Owner must immediately pay to the Owners Committee the difference. If an Owner's proportion of actual Operating Expenses and Driveway Costs for the previous Expense Year is less than the amount paid by the Owner pursuant to clause 4.5 or clause 4.7(c) as appropriate, the Owners Committee shall credit the difference to the Estimate for the then current Expense Year.

4.7 If the Owners Committee has failed to advise an Owner of the Estimate for an Expense Year before the date which is 10 working days after the commencement of the Expense Year, each Owner must before the date which is 20 working days after the commencement of the Expense Year pay the Estimate applicable to the previous Expense Year. On the Estimate for the Expense Year being advised to that Owner:

- (a) If the Estimate is greater than the amount (if any) already paid by that Owner under this clause, then the Owner must immediately pay to the Owners Committee the difference;
- (b) If the Estimate is less than the amount (if any) already paid by the Owner under this clause, then the Owners Committee must refund the difference to the Owner.

5. SPECIAL LEVIES

5.1 The additional levy referred to in clause 5.2 may only be fixed by the Owners Committee by Special Resolution.

5.2 Subject to clause 5.1 the Owners Committee:

- (a) May from time to time fix an additional annual levy to be paid by each Owner together with the Estimate for that Owner to be set aside as a sinking fund to allow for and meet the costs of capital improvements; and
- (b) May from time to time fix such additional special levies payable by each Owner at such times as are set by the Owners Committee as the Owners Committee considers are necessary to perform emergency repairs and maintenance or otherwise meet its obligations under this instrument.

Any levies payable by Owners under this clause shall be borne by Owners in equal proportions (except if the costs relate to the Driveway in which case they shall be borne by Owners in the proportions set out in clause 4.2 above), PROVIDED HOWEVER that where the need for maintenance or operation is directly attributable to actions of one of the Owners or their servants, tenants, agents, contractors, workmen, licensees or invitees the cost shall in that case be borne by that Owner.

6. SALE OF A DOMINANT LOT

6.1 Where an Owner ("Vendor") sells a Dominant Lot:

- (a) Notwithstanding any other clause in this instrument the Vendor shall remain liable for sums owed to the Owners Committee by that Vendor and no Vendor will be entitled to a refund of any levies upon ceasing to be an Owner;
- (b) The Vendor shall continue to be liable as a primary and principal debtor for all indebtedness of the purchaser of the Dominant Lot to the Owners Committee until the purchaser's name is registered on the certificate of title to the Dominant Lot;

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- (c) The purchaser of a Dominant Lot must, immediately upon becoming an Owner (and thereafter as details change) provide the Owners Committee with the details necessary for maintenance of the register of Owners under clause 6.3.

6.2 The Owners Committee shall on application by an Owner or any person authorised in writing by such Owner provide the Owner or authorised person with a statement of the indebtedness of the Owner to the Owners Committee calculated to the date specified in the application. The statement shall show:

- (a) Estimate of such Owner's proportion of Operating Expenses and Driveway Costs for the current Expense Year;
- (b) Payments made by the Owner on account of Operating Expenses and Driveway Costs in the current Expense Year;
- (c) Payments due from the Owner on account of Operating Expenses and Driveway Costs in the current Expense Year and not paid by the Owner; and
- (d) Any accumulated unpaid default interest.

6.3 The Owners Committee shall maintain a register of Owners recording:

- (a) The name, address, occupation, telephone number and facsimile number (if any) of each Owner and, if the Owner is not a natural person, a contact person for that Owner;
- (b) The date upon which each Owner became a registered proprietor; and
- (c) For each Owner, the person nominated by that Owner under clause 9.17 as being entitled to vote and eligible to participate in the Owners Committee.

7. USE OF COMMON FACILITIES

7.1 Each Owner together with the Owner's invitees and licensees shall be entitled to make use of and enjoy:

- (a) Lot 9;
- (b) the security gates and security systems located at the entrance to the Development on Lot 6 DP 358730; and
- (c) any other Common Facilities to the extent that the relevant Owner has the right to use those Common Facilities under the terms of any easement,

subject to the following subclauses.

7.2 Notwithstanding the Owners' ownership of the Lots, each of the Owners acknowledges that they will not use the Common Facilities in any way which will interfere with the reasonable enjoyment of the Common Facilities by other Owners and will use and always use the Common Facilities in accordance with any rules made by the Owners Committee from time to time concerning the same.

7.3 The Owners covenant that they will not:

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- (a) Use or permit the Common Facilities to be used for any purpose which is illegal or injurious;
- (b) Make cause or permit to be made or caused any undue noise or disturbance upon the Common Facilities;
- (c) Use the Common Facilities in a manner such as might unreasonably interfere with the use and enjoyment thereof by other Owners;
- (d) Exercise the use authorised in clause 7.1 hereof in a manner such as might unreasonably interfere with the work of the Owners Committee in maintaining the Common Facilities;
- (e) Do or permit anything or commit any act, omission or default whereby the use of the Common Facilities is in any way impeded or obstructed except as otherwise expressly permitted herein.

7.4 The Owners covenant that they will:

- (a) Comply with the terms of all easements, land covenants, conservation covenants and Queen Elizabeth II National Trust Covenants registered against the titles to the Lots;
- (b) Comply with all local authority bylaws and town planning ordinances affecting the Common Facilities and the use thereof;
- (c) Comply with the Wetland Procedures Manual;
- (d) Arrange for all refuse arising out of their use of the Common Facilities to be removed;
- (e) Indemnify and keep indemnified the Owners Committee from and against any cost for repair to the Common Facilities for which the Owner may be responsible.

7.5 The Owners acknowledge that as it is not possible to set out in all the rights, obligations and duties of the Owners Committee and the Owners to the other they declare their recognition of the general principles of this instrument provide for the maintenance and enjoyment of the Common Facilities by the Owners for the time being.

7.6 If there is any conflict between the terms of this instrument and the terms of any other easements or land covenants registered against the Lots, then the terms of this instrument will prevail to the extent of any inconsistency.

7.7 The Owners of each Lot grant the Owners Committee and those authorised by the Owners Committee access over the land comprising each Lot for the purposes of constructing, repairing, replacing and maintaining the Common Facilities and, in particular, the Owners of Lots 1, 2, 6, 7, 8 and 9 DP 358730 acknowledge that the Owners Committee is entitled to erect, maintain and operate the Driveway located on those Lots.

8. BREACH OF OBLIGATION

Occupiers and invitees

8.1 A reference to an act or omission by any Owner, shall include any act or omission by any mortgagee in possession of that Owner's Dominant Lot or the occupiers of such Owner's Dominant Lot, the invitees of such occupier and the invitees of the mortgagee in possession of that Owner's Dominant Lot.

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Consequences

8.2 Upon any breach of this instrument by an Owner ("Offending Owner"):

- (a) Where damage has been caused to any of the Common Facilities, the Offending Owner shall make good such damage;
- (b) If such default continues for seven days after notice is given by the Owners Committee to the Offending Owner to remedy the default, the Owners Committee may do anything, including paying the money, necessary to remedy the default;
- (c) All money paid and expenses incurred by the Owners Committee (including any legal costs of the Owners Committee) in remedying, or attempting to remedy, any breach by an Offending Owner of this instrument, or incurred in the exercise, or attempted exercise, or enforcement or attempted enforcement of any power, right or remedy of the Owners Committee in respect of such breach, shall be a debt due from the offending Owner to the Owners Committee;
- (d) If any money payable by an offending Owner to the Owners Committee is in arrears and unpaid for seven days (whether or not formal demand for payment has been made and without any formal demand being necessary) such money shall be payable on demand and shall bear interest at the Default Interest Rate, computed on a daily basis from the due date until the date of payment in full.

Mortgage

8.3 If any party ("the Defaulting Party") neglects or refuses to pay any money in accordance with clause 8.2(c) and (d) then that party must forthwith upon demand and in consideration of the Owners Committee carrying out or paying for the work give and execute in favour of all the Owners other than the Defaulting Party ("the Non-Defaulting Parties") a good and registerable Memorandum of Mortgage of the Defaulting Party's land within the Development to secure the Defaulting Party's proportion of the cost of carrying out or paying for the work together with interest at the Default Interest Rate. The said Mortgage shall be in such form and contain such covenants, conditions, provisions and powers as are usually inserted in mortgages of land securing trust funds by solicitors practicing in Northland AND the Defaulting Party shall pay all costs and expenses of and incidental to:

- (a) the preparation and registration of the said Mortgage and any Variation or Discharge thereof; and
- (b) the costs (as between solicitor and client) and disbursements of the Owners Committee and/or the Non-Defaulting Parties of and incidental to the enforcement or attempted enforcement by the Owners Committee and/or the Non-Defaulting Parties of their rights, remedies and powers under these presents and/or under the Mortgage including the giving or attempted giving of any notice pursuant to the provisions of the Property Law Act 1952 or the provisions of these presents; and/or
- (c) pay to the Owners Committee as liquidated damages the sum of \$100.00 per day for every day that such breach or non-observance continues.

9. PROCEEDINGS AT MEETINGS OF OWNERS**Chairperson**

9.1 The Owners Committee may from time to time elect one of the Owners as chairperson.

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- 9.2 The Owner elected as chairperson holds that office until he or she dies or resigns or is removed by the Owners Committee or the Owners Committee elects a chairperson in his or her place.
- 9.3 The first chairperson will be Peter Frederick Ruddell.
- 9.4 If at a meeting the chairperson is not present within 5 minutes after the time appointed for the commencement of a meeting of the Owners Committee, the Owners present may choose one of their number to be chairperson of that meeting.

Secretary

- 9.5 The Owners Committee may from time to time elect one of the Owners as secretary, upon such terms as the Owners Committee considers appropriate in its absolute discretion.
- 9.6 The Owner elected as secretary holds that office until he or she dies or resigns or is removed by the Owners Committee or the Owners Committee elect a secretary in his or her place.
- 9.7 The first secretary will be Kristine Joy Ruddell.
- 9.8 The accounts of the Owners Committee must be kept by the Secretary (or such other person as may from time to time be designated by the Owners Committee) who shall produce them to the Owners Committee upon demand.

Notice of meeting

- 9.9 The secretary must, upon request by the Chairperson or any two Owners, convene a meeting of the Owners Committee by giving not less than five working days notice of the meeting to every Owner who is in New Zealand. The notice must include the date, time and place, of the meeting and the matters to be discussed.
- 9.10 An irregularity in the notice of a meeting is waived if all members of the Owners Committee entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all Owners Committee entitled to receive notice of the meeting agree to the waiver.

Methods of holding meetings

- 9.11 A meeting of the Owners Committee may be held either :-
- (a) By a number of the Owners Committee who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
 - (b) By means of audio, or audio and visual, communication by which all Owners Committee members participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

Quorum

- 9.12 A quorum for a meeting of the Owners Committee is a simple majority of the Owners.
- 9.13 No business may be transacted at a meeting of the Owners Committee if a quorum is not present.

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Voting

- 9.14 The chairperson is not entitled to a casting vote.
- 9.15 A resolution of the Owners Committee is passed if a simple majority of the votes cast are in favour of the resolution, except where this instrument expressly requires a Special Resolution.
- 9.16 An Owner present at a meeting of the Owners Committee is presumed to have agreed to, and to have voted in favour of a resolution of the Owners Committee unless the Owner expressly dissents from, or votes against, the resolution at the meeting.
- 9.17 Every Owner of the Owners Committee has one vote. For the avoidance of doubt if more than one person is registered as an Owner of a Dominant Lot then only one person shall be entitled to exercise the vote of the Owner and is eligible to participate in the Owners Committee. The Owner shall nominate in writing one of their number to be the person entitled to vote and to be eligible to be appointed as a member of the Owners Committee. The Owner may from time to time by notice to the secretary cancel the nomination and substitute another of their number to vote and be eligible to be appointed as a member of the Owners Committee. The person so nominated shall be recorded in the Owners Committee records as a person authorised to exercise the voting rights. In the event that the Owners have not made a valid nomination at the time of any meeting of the Owners Committee, then the Owner appearing first on the Certificate of Title to the Owner's Lot shall be entitled to vote at such meeting.
- 9.18 Any Owner not entitled to vote shall be at liberty to attend any meeting with the Owners Committee unless otherwise resolved by the Owners Committee.

Proxies

- 9.19 There shall be no proxies.

Minutes

- 9.20 The Owners Committee must ensure that minutes are kept of all proceedings at meetings of the Owners Committee.

Unanimous resolutions

- 9.21 A resolution in writing, signed or assented to by all Owners entitled to receive notice of the Owners Committee meeting, is as valid and effective as if it had been passed at a meeting of the Owners Committee duly convened and held.
- 9.22 Any resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Owners.
- 9.23 A copy of every such resolution must be entered in the minute book of the Owners Committee proceedings.

Other proceedings

- 9.24 Except as provided in this instrument the Owners Committee may regulate its own procedure.

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Corporations may act by representatives

- 9.25 A body corporate which is an Owner may appoint a representative to attend a meeting of Owners Committee on its behalf. Written authority from the body corporate shall be produced by the representative upon demand by the chairperson of the Owners Committee.
- 9.26 If a sum due to the Owners Committee in respect of this instrument has not been paid, that Owner may not vote at an Owner's meeting.

10 NOTICES

Service

- 10.1 All notices and other communications required under this instrument shall be in writing and shall be delivered by hand, properly addressed prepaid post, delivery to a document exchange, facsimile or email and, in the case of notices to or communications with:
- (a) any Owner, shall be addressed to that Owner (and marked to the attention of the person nominated by that Owner under clause 9.17) at its address as notified to the Owners Committee upon that Owner becoming an Owner, or at such other address as the Owner may from time to time notify to the Secretary in writing;
 - (b) the Owners Committee, the Chairperson or the Secretary, shall be addressed to the intended recipient care of the Secretary at such address as is notified to the Owners by the Secretary.

11. TIME OF SERVICE BY FACSIMILE

- 11.1 A notice served by facsimile shall be deemed to have been served on the next working day following completion of the transmission of the notice.

12. TIME OF SERVICE BY POST

- 12.1 A notice sent by post or delivered to a document exchange shall be deemed to have been served on the expiration of two working days after the envelope or package containing the notice was duly posted or delivered to the document exchange.

13. TIME OF SERVICE BY EMAIL

- 13.1 A notice sent by email shall be deemed to have been served when receipt is acknowledged by the intended recipient by return email or otherwise in writing.

14. PROOF OF SERVICE

- 14.1 In proving service by post or delivery to a document exchange it shall be sufficient to prove that the envelope or package containing the notice was properly addressed and posted or delivered with all attached postal or delivery charges paid. In proving service by facsimile, it shall be sufficient to prove that the document was properly addressed and sent to the facsimile number of the Owner.

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

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

Easement

Dated

Page

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of

14

Pages

(Continue in additional Annexure Schedule, if required.)

15. DISPUTE RESOLUTION**Process**

- 15.1 If a dispute arises between the parties concerning this instrument, no party may start court proceedings relating to the dispute (unless that party seeks urgent interlocutory relief) without first complying with this clause 15.

Notice of Dispute

- 15.2 A party claiming that a dispute has arisen concerning this instrument must give written notice to the other parties specifying the matter in dispute.

Persons to be Nominated

- 15.3 After a party has given a notice under clause 15.2, each party must nominate one person who will have authority to settle the dispute. The nominated persons must try in good faith to resolve the dispute within ten working days of their nomination.

Mediation

- 15.4 If the dispute is not resolved under clause 15.3, then any party may at any time in the next two working days invite the chairperson of the NZ Chapter of Lawyers Engaged in Alternative Dispute Resolution to appoint a mediator to enable the parties to mediate and settle the dispute. All discussions in the mediation will be without prejudice and will not be referred to in any later proceedings. The parties will bear their own costs in the mediation and will share equally the mediator's costs.

Arbitration

- 15.5 If the dispute is not resolved under clause 15.4 within a further 20 working days after the appointment of a mediator, any party may then require the dispute to be referred to arbitration. If this clause is invoked:
- (a) the dispute will be referred to arbitration by a sole arbitrator in accordance with the Arbitration Act 1996;
 - (b) the arbitration will take place in New Zealand; and
 - (c) the award in the arbitration will be final and binding on the parties.

16. LIMITED LIABILITY TRUSTEE

- 16.1 Michael Jeremy Badham has entered into this instrument as a trustee of the Ruddell Millenium Trust and his liability under this instrument is limited to the assets of the said Trust and is not a personal liability.

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

Easement

Dated

Page **14** of **14** Pages

(Continue in additional Annexure Schedule, if required.)

SECOND SCHEDULE

THE COMMON FACILITIES

Driveway (as defined in clause 2.1).

Post and rail fencing along the areas marked A, AA, B, AB, C, AC, D, K, W and X on DP 358730.

Lot 9 (including without limitation the dam and bund walls, pipework and spillway) and fencing on boundaries of Lot 9.

Facilities installed along the water easements marked AA, AB, AC, D, E and G (excluding any related facilities located on surrounding areas, such as the windmill located in the area marked "Y" on DP 358758).

Water tank situated on the area marked AA on DP 358730.

Any future water pump for stock water supply located on Lot 6 on DP 358730.

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 - Consent Form

Land Transfer Act 1952 section 238(2)



Insert type of instrument
"Caveat", "Mortgage" etc

Easement InstrumentPage **1** of **1** pages**Consentor**Surname must be underlined or in CAPITALS**Capacity and Interest of Consentor**

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

Bank of New Zealand**Mortgagee under Mortgage No. 6197358.3****Consent**

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]

[section _____ of the _____ Act _____]

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:

The within Easement Instrument to create Land Covenants.

Dated this _____ day of _____

Attestation

	Signed in my presence by the Consentor

	Signature of Witness
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name
	Occupation
	Address
Signature of Consentor	

An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.

IN THE MATTER of the Resource Management
Act 1991

A N D

IN THE MATTER of Consent Notice No.
6718019.5 (North Auckland
Registry) ("the Consent
Notice")

VARIATION OF CONSENT NOTICE

Pursuant to Section 221(3) of the Resource Management Act 1991 **WHANGAREI DISTRICT COUNCIL**, on being satisfied that one of the conditions of the subdivision consent imposed as a condition of the consent approving the subdivision effected by Deposited Plan 358730 ("the plan") and secured by the Consent Notice can be varied, **HEREBY VARIES** the Consent Notice in relation to Lots 1 through 8 on the plan by the deletion of condition 3 of the Consent Notice and substituting the following condition in its stead such to apply to Lots 1 through 8 on the plan:

3. No cats or mustelids shall be kept, or permitted to be kept, on Lots 1 through 8 ("the Lots") on the plan. Dogs may be kept on the Lots under the following circumstances:
 - a. All dogs are to be kept in a compound or on a leash.
 - b. No dogs are allowed in Lot 9 on the plan or on the covenanted area marked F on the plan.
 - c. The boundaries of Lot 9 and the covenant area marked F on the plan are to be fenced to a standard equivalent to one of the specimen types or rural fence (excluding electric fences) as provided for in the Second Schedule to the Fencing Act 1978. These fences are to be modified to ensure that they

prevent the passage of dogs (e.g. through use of chicken mesh), and are to be continually maintained.

DATED at Whangarei this 22nd day of October 2014.

SIGNED for and on behalf of
WHANGAREI DISTRICT COUNCIL

by *Rg Jucchi*.....

Authorised Officer

in the presence of:

[Signature]
.....
Witness to complete in BLOCK letters

Name: PETE WATTS

Address: WHANGAREI DISTRICT COUNCIL

Occupation: ENVIRONMENTAL ENGINEERING OFFICER

STATEMENT OF PASSING OVER

This document has been supplied in good faith. OWN Real Estate (Powered by Ownly Limited, Licensed REAA 2008) is merely passing over this information as supplied to us. We cannot guarantee its accuracy as we have not checked, audited, or reviewed the information and all intending purchasers are advised to seek your own advice as to the information contained in this document. To the maximum extent permitted by law we do not accept any responsibility to any party for the accuracy or use of the information herein.