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Document, Interest, Instrument: 10991928.8

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Instrument No. 10991928.8
 Status Registered
 Date & Time Lodged 17 Apr 2018 10:08
 Lodged By Tagimacruz, Emeryn Gardones
 Instrument Type Easement Instrument



Affected Computer Registers	Land District
799405	South Auckland
799406	South Auckland
799407	South Auckland
799408	South Auckland
799409	South Auckland
799410	South Auckland
799411	South Auckland
799412	South Auckland
799413	South Auckland
799414	South Auckland
799415	South Auckland
799416	South Auckland
799417	South Auckland
799419	South Auckland

Annexure Schedule: Contains 10 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

I certify that the Mortgagee under Mortgage 6468790.3 has consented to this transaction and I hold that consent

Signature

Signed by Helen Maree Nathan as Grantor Representative on 13/04/2018 10:20 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 Helen Maree Nathan as Grantee Representative on 13/04/2018 10:21 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

TODD DUNCAN HOLDINGS LIMITED

Grantee

TODD DUNCAN HOLDINGS 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
Vegetation	"X" on DP 514027	Lot 5 DP 514027 (CT 799406)	Lot 4 DP 514027 (CT 799405) Lot 6-16 DP 514027 (CT 799407 - CT 799417 inclusive) Lot 100 DP 514027 (CT 799419)

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}~~ ~~{negatived}~~ ~~{added to}~~ ~~or~~ ~~{substituted}~~ by:

the provisions set out in Annexure Schedule 1

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 the Annexure Schedule

Insert instrument type

Easement

ANNEXURE SCHEDULE 1**VEGETATION EASEMENT****1. Definitions for Vegetation easement**

- 1.1. Developer means Todd Duncan Holdings Limited
- 1.2. Easement Area means the area marked X on DP 514027
- 1.3. Easement Facility means all landscaping features, including all entrance structures, walls, contouring, planting and grassed areas.
- 1.4. Grantor and Grantee have the meaning ascribed to those terms by the Land Transfer regulations 2002.
- 1.5. Proprietors means the Grantor and Grantees.
- 1.6. Meeting of Proprietors means a meeting conducted in accordance with clauses 2.19-2.24
- 1.7. Authorised Proprietor means a Proprietor authorised by a Meeting of Proprietors, or pursuant to clause 2.24, to carry out some action, or to incur some obligation or liability on behalf of the other Proprietors

2. The Rights and Powers of the vegetation Easement are as follows:**Amenity Vegetation Maintenance.**

- 2.1. The Proprietors shall have the right to enter onto the Easement Area and will maintain on the Easement area, for the benefit of all Proprietors all landscaping and planting in the Easement Area in the style and general nature created by the Developer as at the date of this easement being the amenity planting and entrance landscaping of the development of which the Dominant Tenement forms part.
- 2.2. The Proprietors will:
 - (a) keep the Easement Area free of noxious weeds and pest plants;
 - (b) Replace any tree or shrub that is dead, diseased or removed with a specimen similar to that originally planted;
 - (c) Keep all grassed areas neat and tidy
- 2.3. The Proprietors will not do anything, or allow anything to be done which will damage or disturb the Easement Facility or any part of it.
- 2.4. The Grantor shall keep all grazing animals from the Easement area.
- 2.5. The Proprietors shall not at any time do any of the following:

*Insert instrument type***Easement**

- (a) Bring any pet or animal onto the Easement Area which may create a nuisance;
- (b) Deposit any rubbish;
- (c) Park any vehicle;
- (d) Do any other thing that may derogate from or diminish the enjoyment of the Easement Facility by the Proprietors as an amenity area for the entrance of the development.

General provisions

- 2.6. No power is implied for the Grantor to determine this easement for any breach of the covenants or conditions of this easement (express or implied) or for any other cause whatsoever. It is the intention of the parties that this vegetation easement shall subsist forever or until duly surrendered.
- 2.7. The Grantor shall not do any act which impedes, interferes with or restricts the rights of the Grantee and other authorised persons in relation to the Easement Facility.

Rights of entry

- 2.8. For the purpose of performing any duty or in the exercise of any rights conferred under this easement, the Proprietors may --
 - (a) Enter upon the servient land by a reasonable route and with all necessary tools, vehicles, and equipment; and
 - (b) Remain on the servient land for a reasonable time for the sole purpose of completing the necessary work; and
 - (c) Leave any vehicles and equipment on the servient land for a reasonable time if work is proceeding.
- 2.9. The Proprietors must ensure that as little damage or disturbance as possible is caused to the servient land or to the grantor.
- 2.10. The Proprietors must ensure that all work is performed in a proper and workmanlike manner.
- 2.11. The Proprietors must ensure that all work is completed promptly.
- 2.12. The Proprietors must immediately make good any damage done to the servient land by restoring the surface of the land as nearly as possible to its former condition.

Insert instrument type

Easement

Repair, maintenance, and costs

- 2.13. Any maintenance, repair or replacement of any Easement Facility in respect of the easement set out herein that is necessary because of any act or omission by any Proprietor must be carried out promptly by that Proprietor at the sole cost of that Proprietor or in such proportion as relates to the act or omission
- 2.14. Except as provided for in clause 2.13 above (damage caused by a Proprietor), the cost of maintaining the Easement Facility including all planting, mowing and maintenance shall be borne by the Proprietors, with each of the dominant and servient tenements bearing an equal share in the costs. Where a lot is further subdivided, any resulting lot shall meet a full share of costs under this easement instrument.
- 2.15. The Proprietors shall contribute to a common fund for the management and maintenance of the Easement Facility under the control of not less than three of the Proprietors, or as otherwise approved at a Meeting of Proprietors.
- 2.16. Amounts of such contributions shall be assessed based on anticipated maintenance costs with such additional amounts as may be approved at a Meeting of Proprietors. Such fund shall be held for payment of all maintenance costs, contractors and other incidental items relating to the Easement Facility including management of the fund itself.
- 2.17. In the case of any costs arising in excess of the amounts held in the common fund the Proprietors will contribute such additional sums as may be reasonably necessary from time to time in equal shares.
- 2.18. Where a majority of the Proprietors holding not less than 75% in aggregate of all the Lots agree, all or any part of the accumulated fund may be distributed to all the proprietors of the Lots on an equal basis.

Meetings, Decisions and authority

- 2.19. For the purposes of opening account(s), appointing signatories, giving signing authority, and making any other decisions necessary to give effect to the provisions herein (including the need to hire and manage contractors and to manage the common fund, any three of the Proprietors by a combined notice in writing may at any time and from time to time call a Meeting of Proprietors (giving at least two weeks' notice) at any suitable local location and at a convenient time. At such meeting:-
 - (a) A chairperson shall be appointed.
 - (b) Normal meeting procedures shall be followed.
 - (c) One Proprietor from each Lot shall be entitled to vote.
 - (d) Three of the Proprietors shall be a quorum.

*Insert instrument type***Easement**

- (e) Decisions shall be by simple majority, the chairperson having a casting vote.
 - (f) Voting shall be by show of hands.
 - (g) Attendance may be in person, by written proxy or by telephone or other electronic means of attendance as the Proprietors agree.
 - (h) Decisions will be recorded in writing and circulated to all Proprietors.
- 2.20. Notice may be given by written notice placed in the mail box of each lot or by any other means approved by a Meeting of Proprietors from time to time.
- 2.21. In the event that any meeting does not reach a quorum the meeting will be reconvened to occur one hour later at which time the quorum will be those Proprietors who are in attendance at the time.
- 2.22. Notwithstanding any other provision relating to a Meeting of Proprietors, the Proprietors may make any decision that could be made at a Meeting of Proprietors by way of written agreement of at least 75% of the Proprietors entitled to vote, which includes agreement by way of email provided that notice of any decision is circulated in the same manner as a decision of a Meeting of Proprietors.
- 2.23. The Proprietors each jointly and severally indemnify any Authorised Proprietor who enters into any contract or other arrangement or obligation on behalf of the proprietors as a group and for the purposes of this easement instrument.
- 2.24. Any proprietor can authorise such urgent works as may be necessary to maintain the Easement facility where there is a risk to the health or safety of any person or property without the need to have a decision by way of written agreement or a Meeting of Proprietors in accordance with clauses 2.19 or 2.22 herein and all the Proprietors shall be responsible for the cost of such work.

Default

- 2.25. If any Proprietor ("the Defaulting Party") neglects or refuses to perform or join with the other Proprietors in performing any obligation under this easement instrument, the non-defaulting Proprietors may:
- (a) meet the obligation and;
 - (b) if relevant for that purpose, enter the servient land:
- 2.26. Where a default relates to non-payment of a Proprietor's share of costs, the following provisions shall apply –
- (a) Any Authorised Proprietor may give written notice to the Defaulting Party at that party's last known contact address whether physical or

*Insert instrument type***Easement**

electronic, requiring the Defaulting Party to make payment of the relevant costs.

- (b) If, at the expiry of the notice period, the Defaulting Party has not met the obligation, any Authorised Proprietor may, as agent for the Proprietors and in their names issue proceedings to recover the costs and interest owing.
 - (c) The Defaulting Party will be liable to pay the non-defaulting Proprietors for the cost of preparing and serving the default notice and all costs of enforcement including costs incurred on a solicitor client basis.
 - (d) The Non Defaulting Party may recover from the Defaulting Party, as a liquidated debt, any money payable under this clause 2.26, together with:
 - (i) liquidated damages in an amount of \$1,000 for every six months period or part period that the Defaulting Party's share of costs are outstanding, such amount being agreed to be a reasonable pre-estimation of less; plus
 - (ii) Interest at the rate of 24% per annum compounding monthly on any amount outstanding, including any liquidated damages amounts, from the date due for payment until payment is made in full.
- 2.27. Any amount payable by a Proprietor of a Lot under this clause shall be payable by any Transferee from that Proprietor with the intent that any transferee of a lot will become liable upon transfer to any contribution, costs or damages payable in respect of that Lot under this easement irrespective of when those costs or damages arose.

Disputes

- 2.28. If a dispute arises between any Proprietors in relation to this easement instrument –
- (e) The Proprietor initiating the dispute (the Disputing Party) must provide full written particulars of the dispute to the other Proprietors (the Other Proprietors); and
 - (f) The Other Proprietors must promptly meet with the Disputing Party together, or through an Authorised Proprietor or Proprietors, and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the Proprietors at a Meeting of Proprietors; and

Insert instrument type

Easement

- (g) If the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the Proprietors) –
 - (iii) the dispute must be referred to mediation; and
 - (iv) the mediation must be conducted by a single mediator to be agreed on by the parties or, failing agreement, to be appointed by the President of the Waikato Bay of Plenty District law Society or its successor.
- (h) If the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the Proprietors) –
 - (v) the dispute may be referred to arbitration in accordance with the Arbitration Act 1996; and
 - (vi) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the Waikato Bay of Plenty District law Society or its successor.
- (i) Nothing in Clause 2.28 shall apply to an action to recover a share of costs payable for maintenance of the Easement Facility or to recover a liquidated debt under clause 2.26 or 2.27.

Annexure Schedule - Consent Form
Land Transfer Act 1952 section 238(2)

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

Mortgage

2015/6250
APPROVED
Registrar-General of Land

Page 1 of 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 6468790.3

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 _____ of the Land Transfer Act 1952]~~

~~Pursuant to [Section s224(b)(i) of the Resource Management Act 1991]~~

~~Pursuant to [Section _____ of the _____ Act]~~

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


The Consentor hereby consents to:

1. The subdivision of Lot 3-4 DP 383726 comprised in Certificate of Title 258236.
2. The registration of encumbrances, easement instruments and land covenants within e-dealing 10891928.
3. All documents to enable the deposit of Plan 614027 and the issue of new Certificates of Title.
- 4.
- 5.

Dated this 2nd day of February 2018

Attestation

SIGNED in and on behalf of
BANK OF NEW ZEALAND
Witness



Makerita Wright

Signature of Consentor

Signed in my presence by the Consentor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

Occupation

Address

Kathy Fong

Kathy Fong
BANK OFFICER
AUCKLAND

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.



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

Makerita Wright

I, _____, **Quality Support Lending Fulfilment Officer** of
Auckland, New Zealand, certify:

1. That by deed dated 8 May 2015, Bank of New Zealand, of Level 4, 80 Queen Street, Auckland, New Zealand, appointed me its attorney.
2. A copy of the deed is deposited in the Hamilton registration district of Land Information New Zealand as dealing No. 10097085.2
3. That I have not received notice of any event revoking the power of attorney.

SIGNED at Auckland 02 February 2018



Makerita Wright