

**GRANT OF EASEMENT IN GROSS TO TERRITORIAL
AUTHORITY FOR RIGHT OF WAY STORMWATER DRAINAGE
PONDING AND PLANTATION EASEMENTS**


WHEREAS:

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1. COLIN DENIS GILLESPIE and KATHLEEN GAY NICHOL (hereinafter called "the Grantors") are registered as proprietors of an estate of freehold in fee simple as tenants in common in equal shares subject however to such encumbrances, liens and interests as are notified by memorandum underwritten or endorsed hereon in all that piece of land containing 5.4511 hectares more or less being Lot 2 Deposited Plan 190539 Parish of Opaheke and being the whole of the land comprised and described in Certificate of Title Volume 120B Folio 969 (North Auckland Registry) SUBJECT TO Fencing Agreement in conveyance 392783 and to Mortgage D.326147.5 to ASB Bank Limited, which land is situated at Great South Road, Papakura and is hereinafter called "the servient land".
2. THE PAKAPURA DISTRICT COUNCIL a body corporate duly constituted under the Local Government Act 1974 (hereinafter called "the Council") being the Territorial Authority in whose district the land is situated approved Deposited Plans No. 198599 and 201515 subject (inter alia) to the condition that the Grantors grant to the Council as easements in gross firstly a right of way over that part of the servient land marked "A" and described as "right of way" on Deposited Plan No. 201515 and secondly a right of way, stormwater drainage, ponding and plantation easements over that part of the servient land marked "B" and described as "right of way, stormwater drainage, plantation" on Deposited Plan No. 201515 hereinafter called "the right of way marked A" and "the ponding area marked B" respectively
3. IN ORDER to give effect to the fulfilment of the condition it is necessary that certain works be carried out.
4. THE COUNCIL has granted the rights set out in Resource Consent No. 16/97/178 dated 20 March 1998 as modified on 29 March 1998 and 14 February 1999 (hereinafter called "the resource consent" which term shall include any resource consent granted in renewal or substitution for it) to carry out certain works (hereinafter called "the approved works") and to discharge water upon the terms set out in the said Resource Consent.

NOW THEREFORE IN CONSIDERATION of the sum of ONE DOLLAR (\$1.00) paid to the Grantors by the Council (the receipt of which sum is hereby acknowledged) and in satisfaction of the abovementioned condition pertaining to the approval of Deposited Plans Nos. 198599 and 201515 THE GRANTORS TRANSFER AND GRANT TO THE COUNCIL AS AN EASEMENT IN GROSS FOR ALL TIME from the date of this instrument the rights:

- (a) To divert, gather, collect, concentrate, store and convey stormwater and surface water which shall from time to time accumulate in and on and from the Great South Road and the land in Deposited Plan 198599 and other lands in and on the ponding area marked B.

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- (b) To inspect, clean, desilt, repair, dig, embank and renew the pond within the ponding area marked B.
- (c) For the Council, its contractors, agents and servants (in common with the Grantors, the Grantors tenants and any other person lawfully entitled) at all times by day and by night to pass and repass with or without motor vehicles, machinery and implements of any kind, over and along the right of way marked "A" and the ponding area marked "B" respectively for all purposes connected with the use and enjoyment of the right of way, stormwater drainage, ponding and plantation easements hereby created but not for any other purpose provided however that such right of passage shall not be exercised between 6 p.m. and 7 a.m. except in emergencies or with the consent of the Grantors.
- (d) To plant, cultivate and grow a plantation of trees within such parts of the ponding area marked "B" as are not usually covered in water and to protect, fertilise, prune, thin and otherwise encourage the growth of such trees and to remove the same at maturity or as otherwise may seem necessary and replace the same.
- (e) To plant, cultivate and grow wetland plants within such parts of the ponding area marked "B" as are usually covered in water and to protect, fertilise, prune, thin and otherwise encourage the growth of such wetland plants and to remove the same as from time to time may seem necessary or advisable to replace the same, provided that such vegetation shall be planted and maintained by the Council only to the minimum standard required by the Council to ensure in the opinion of the Council a satisfactory quality of stormwater treatment.
- (f) To erect, retain, replace and renew stockproof fences along the entire boundaries of the ponding area marked B.
- (g) For the purposes of this grant for the Council's agents, contractors and servants with or without vehicles, machinery or tools to enter upon the easement and generally to do anything necessary or convenient for the full exercise of the rights granted by this instrument.

COVENANTS

The Council covenants with the Grantors :

- (a) at all times hereafter to erect, retain, replace and renew in good stockproof condition stockproof fences along the entire boundaries of the ponding area marked B, such fences to be of not less than 7 wires and the posts thereof to be no more than 5 metres apart and battens to be no less than 5 between posts, the fence otherwise to be as described in Clause 7 of the Second Schedule to the Fencing Act 1978 **PROVIDED HOWEVER** that as to the fence on the eastern boundary of the ponding area marked "B" (being that part of the eastern boundary of the servient tenement shown as 62.55

metres in length and lying at a bearing of 180° 19' 00" 180 on Deposited Plan 201515) the Council's obligation shall be that which would otherwise be borne by the Grantors under the Fencing Act 1978.

- (b) to maintain the right of way marked "A" to the minimum standard necessary in the sole judgment of the Council to provide summer access for heavy motor vehicles, machinery and implements for the maintenance of the right of way and the stormwater, drainage, ponding and plantation rights and to schedule routine maintenance for the months of February and March in each year to take best advantage of hard ground conditions and to limit unscheduled winter maintenance to necessary maintenance only.


The Council covenants with the Grantors that upon the exercising of any of its rights the Council shall :

- (a) cause as little damage as possible to the servient land and the occupiers of the servient land;
- (b) restore the servient land as near as reasonably possible to its previous condition;
- (c) make good at the Council's expense any damage done by the actions of the Council to animals, buildings, erections and fences and gates of the Grantors.
- (d) lock the gate on the eastern side of the Great South Road at the end of right of way marked "A" and also the gate in the fence around the ponding area marked "B" after each occasion when the gate shall have been unlocked by the Council or its said contractors, agents, or servants.

In the event of the Council entering into or upon the servient land in the exercise of its rights the Council shall and will carry out and complete all work undertaken by the Council pursuant to these presents with as little disturbance to the occupation and enjoyment of the servient land by the Grantor as is consistent with the rights hereby conferred on the Council. If reasonably possible the Council will give notice to the grantors of the its intention to enter prior to entering upon the servient land.

The Grantors covenant with the Council:

- (a) not to graze, nor to permit, nor to suffer any domestic animals to be within or to graze within the ponding area marked B and so far as may be reasonably possible to eradicate possums, rats, stoats and other vermin within it and so far as may be reasonably possible to keep it free of infestation by possums, rats, stoats and other vermin.

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- (b) not to cause, nor to permit, nor to suffer to be lit any fire within or near the ponding area marked "B".
- (c) not to deposit, nor to cause, nor to permit, nor knowingly to suffer rubbish or refuse or articles of any description or kind, decaying vegetation, tree branches, tree trunks, substances of any description or kind whatsoever, earth, sand, rock, shingle, bark or similar materials in any way nor to allow any such deposited matter to remain upon the ponding area marked "B" except with the prior consent in writing of the Council.
- (d) To undertake a significant part in the management of the pond by enhancing the appearance of the pond and maintaining view corridors into the pond and undertaking such routine manual maintenance tasks as clearing debris and rubbish from the outlet screen and protection and management of plants, but limited to such routine maintenance and not do anything which may adversely affect the Council's rights or needs for maintaining maintenance access and stormwater quality treatment functions.
- (e) not to lock the gate on the eastern side of the Great South Road at the end of right of way marked "A" or any other gates on the right of way to the pond without making satisfactory arrangements with the Council.

The parties covenant each with the other to observe and perform the requirements of the comprehensive stormwater discharge consent No. 21967.

SIGNED by COLIN DENIS GILLESPIE
and KATHLEEN GAY NICHOL as
Grantors in the presence of :

)
)
) *B. D. Gillespie*
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[Signature]
[Signature]
J.T.K. Carroll
Clerk to Rice Craig
Solicitors
Papakura

12-3031-593069
1718264

ASB BANK LIMITED, the Mortgagee pursuant to Memorandum of Mortgage Number D.326147.5 hereby consent to the registration of the attached Grant of Easement.

DATED this day of **12 MAY 2000** 2000

SIGNED by ASB BANK LIMITED by its Attorney

BRENDA ANNE WATERS

in the presence of:

Witness:

Bank Officer.

AUCKLAND

N. Matani
Namita Matani

ASB BANK LIMITED

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, BRENDA ANNE WATERS of Auckland in New Zealand, Acting Team Supervisor Administration, Lending Services of ASB Bank Limited.

HEREBY CERTIFY

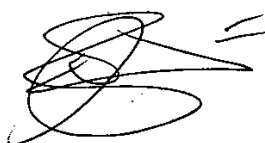
1. THAT I hold the appointment of Acting Team Supervisor Administration, Lending Services of ASB Bank Limited at Auckland (hereinafter called "the Bank").
2. THAT by Deed dated 22 April 1997 copies of which are deposited in the Land Transfer Office at:

Auckland	as No. D.150760.2	(Auckland Registry)
Blenheim	as No. 191138.2	(Marlborough Registry)
Christchurch	as No. A305652.2	(Canterbury Registry)
Dunedin	as No. 930853.2	(Otago Registry)
Gisborne	as No. G.215840.2	(Poverty Bay Registry)
Hamilton	as No. B.419239.2	(South Auckland Registry)
Hokitika	as No. 107522.2	(Westland Registry)
Invercargill	as No. 250427.2	(Southland Registry)
Napier	as No. 658881.2	(Hawkes Bay Registry)
Nelson	as No. 368274.2	(Nelson Registry)
New Plymouth	as No. 441840.2	(Taranaki Registry)
Wellington	as No. B.600585.2	(Wellington Registry)

I, as holder of the appointment described in paragraph 1 hereof was constituted and appointed as attorney of the Bank on terms and subject to the conditions set out in the said Deed.

3. THAT as at the date hereof, I have not received any notice or information of the revocation of that appointment by winding up or dissolution of the Bank or otherwise.

SIGNED this 2 MAY 2000 day of



DATED

15 JUN 2000 2000

COLIN DENIS GILLESPIE
KATHLEEN GAY NICHOL

and

THE PAKURA DISTRICT COUNCIL

GRANT OF EASEMENT IN GROSS TO
TERRITORIAL AUTHORITY FOR RIGHT
OF WAY STORMWATER DRAINAGE
PONDING AND PLANTATION
EASEMENTS

The above/within easements when created will
be/are subject to Section 243(a) Resource
Management Act 1991

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Correct for the purposes of the Transfer
Act 1952

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Solicitor for the Grantee

RICE CRAIG
SOLICITORS
PAKURA
ca/pdc-gillespie



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PARTICULARS ENTERED IN REGISTER
LAND REGISTRY NORTH AUCKLAND
for REGISTRAR-GENERAL OF LAND OF LAND

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