

View Instrument Details



Instrument No 8775309.4
Status Registered
Date & Time Lodged 08 July 2011 16:21
Lodged By Johnston, Martin Ross
Instrument Type Easement Instrument



Affected Computer Registers	Land District
50507	South Auckland
522717	South Auckland
522718	South Auckland

Annexure Schedule: Contains 5 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 ☒

Mortgage 7727252.3 does not affect the servient tenement, therefore the consent of the Mortgagee is not required ☒

I certify that the Mortgagee under Mortgage 6605920.3 has consented to this transaction and I hold that consent ☒

Mortgage 7266889.3 does not affect the servient tenement, therefore the consent of the Mortgagee is not required ☒

Signature

Signed by Ian David Bentley as Grantor Representative on 07/06/2011 04:17 PM

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 Martin Ross Johnston as Grantee Representative on 05/07/2011 12:54 PM

*** 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

GIBSON & DAY LIMITED

Grantee

Martin Donald SUTHERLAND and Grant Leslie WILKINSON

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
Right of Way	A DP 431787	Lot 2 DP 431787 CT 522718	Lot 1 DP 431787 Part CT 522717 and Lot 2 DP 312857 CT 50507
Right to Convey Telecommunications and Computer Media	B, C DP 431787	Lot 2 DP 431787 CT 522718	Lot 1 DP 431787 CT 522717

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:

[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]

[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:

[Memorandum number _____, registered under section 155A of the Land Transfer Act 1952]

[Annexure Schedule 2]

Form L

Annexure Schedule 1

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Insert instrument type

Easement Instrument

*Continue in additional Annexure Schedule, if required***ANNEXURE SCHEDULE 1****1.1 Right of Way**

The same rights and powers as set out in paragraph 6 of the Fourth Schedule to the Land Transfer Regulations 2002.

1.2 Right to Convey Telecommunications and Computer Media

The same rights and powers as set out in paragraph 8 of the Fourth Schedule to the Land Transfer Regulations 2002.

2. General provisions

2.1 All easement facilities in respect of the within easements, shall be placed under (where practical) and within the ground comprising the stipulated course.

2.2 No power is implied in respect of any easement for the grantor to determine the easement for breach of any provision in this instrument (which whether expressed or implied) or for any other cause, it being the intention of the parties that each easement shall subsist for all time unless it is surrendered.

2.3 All easements referred to in this schedule include –

2.3.1 The right to use any easement facility already situated on the stipulated area or course for the purpose of the easement granted; and

2.3.2 The right of the grantee to lay, install and construct any easement facility reasonably required by the grantee; and

2.3.3 If no suitable easement facility exists, the right to lay, install and construct an easement facility reasonably required by the grantee (including the right to excavate land for the purpose of that construction).

2.4 The grantor must not do and must not allow to be done on the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.

2.5 The grantee must not do and must not allow to be done on the dominant land or the servient land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.

Form L

Annexure Schedule 1

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*Insert instrument type***Easement Instrument***Continue in additional Annexure Schedule, if required***3. Repair, maintenance and replacement**

3.1 If the grantee (or grantees, if more than 1) has (or have) exclusive use of the easement facility, each grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.

3.2 If the grantee (or grantees, if more than 1) and the grantor share the use of the easement facility, each of them is responsible equally for the repair and maintenance of the easement facility, and for the associated costs, for the purposes set out in clause 3.1 provided that if any maintenance, repair or replacement of any easement facility in respect of any easement set out herein that is necessary because of any act or omission by the grantor or grantee it must be carried out promptly by that grantor or grantee at the sole cost of that grantor or grantee or in such proportion as relates to the act or omission.

4. Rights of entry

4.1 For the purpose of performing any duty or in the exercise of any rights conferred under these rights and powers or implied in any easement, the grantee may:

4.1.1 Enter upon the servient land by a reasonable route and with all necessary tools, vehicles and equipment; and

4.1.2 Remain on the servient land for a reasonable time for the sole purpose of completing the necessary work; and

4.1.3 Leave any vehicles and equipment on the servient land for a reasonable time if work is proceeding.

4.2 The grantee must ensure that as little damage or disturbance as possible is caused to the servient land or to the grantor.

4.3 The grantee must ensure that all work is performed in a proper and workmanlike manner.

4.4 The grantee must ensure that all work is completed promptly.

4.5 The grantee 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.

4.6 The grantee must compensate the grantor for all damages caused by the work to any crop (whether ready for harvest or not) or to any buildings, erections or fences on the servient land.

Form L

Annexure Schedule 1

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*Insert instrument type***Easement Instrument***Continue in additional Annexure Schedule, if required***5. Disputes**

- 5.1 If a dispute in relation to an easement arises between parties who have a registered interest under the easement:
- 5.1.1 The party initiating the dispute must provide full written particulars of the dispute to the other party; and
 - 5.1.2 The parties must promptly meet 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 parties; and
 - 5.1.3 If the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties):
 - (a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
 - (b) 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 District Law Society (being the District Law Society that has its headquarters closest to the land).
- 5.2 Where there is a conflict between the provisions of the Fourth Schedule to the Land Transfer Regulations 2002 and the Fifth Schedule to the Property Law Act 2007, the provisions of the Ninth Schedule must prevail. Where there is a conflict between the provisions of the Fourth Schedule and/or the Fifth Schedule and the modifications in this Easement Instrument, the modifications must prevail.