

C562014.2 L

Approved by the Registrar-General of Land, Wellington No. 212336.

NORTH AUCKLAND  
Land Registry Office

# MEMORANDUM OF LEASE

LESSORS: LYNTON DIGGLE LIMITED at Auckland and PETER EVERETT RICHARDS of Auckland, Assistant Manager as tenants in common in equal shares

LESSEE: PETER EVERETT RICHARDS of Auckland, Assistant Manager

## SCHEDULE OF LAND AND FLAT

Lessors Estate		Fee simple
C.T. REFERENCE	DESCRIPTION OF LAND AND LOCALITY	DESCRIPTION OF FLAT
6B/707	Lot 2	Flat No. 1
Area	Deposited Plan 52994	on Deposited Plan 158567 (hereinafter called "the Flat") <del>which is part of a building erected on the said land comprising Flats Nos</del>
1442 m <sup>2</sup>	Situated in Parish of Waikomiti	<del>as shown on the said plan (hereinafter called "the said building").</del>

### Encumbrances, Liens, and Interests:

1. Right of way created by Transfer 674095
2. Section 351E(a) Municipal Corporation Act 1954
3. Fencing covenant in Transfers 678514 and 678515
4. A.78193 Easement Certificate
5. Easement Certificate A.78193 when created will be subject to Section 351E(a) Municipal Corporation Act 1954
6. B968874.1 Lease
7. Land covenant in Lease B.968874.1

TERM 999 years commencing on the 1st day of March 19 89

RENTAL 10 cents per annum payable yearly in advance if demanded in writing by the Lessors prior to the commencement of the year for which it is payable.


- CONDITIONS The parties hereby agree that:
1. The covenants conditions and agreements set out in Schedules A, B & C herein form part of this Lease.
  2. In any case where the Lessors are proprietors of a leasehold estate in the said land the covenants conditions and agreements set out in Schedule D herein form part of this Lease.
  3. ~~The words "Flat share" shall be deemed to mean a one half share calculated in terms of the number of flats contained in the said building.~~
  4. The words "Land share" shall be deemed to mean a one-half share calculated in terms of the number of flats contained in all buildings erected on the said land.
  5. In respect of Clauses 6, 13 & 22 in the Schedules hereto where neither sub-clause (a) or sub-clause (b) has been deleted, sub-clause (a) shall form part of this Lease as hereinbefore provided and sub-clause (b) shall not.
  - \*6. as tenants in common in equal shares

AND the Lessors DO HEREBY LEASE to the Lessee and the Lessee DOth HEREBY ACCEPT this Lease of the Flat to be held by the Lessee as tenant and subject to the conditions restrictions and covenants set forth herein.

IN WITNESS WHEREOF these presents have been executed this 15<sup>th</sup> day of December 19 93

THE COMMON SEAL of  
LYNTON DIGGLE LIMITED  
was hereto affixed as  
Lessor in the presence of:

*Lynton Diggle Director*  
*E. C. Diggle - Director*



EXECUTED by the said  
PETER EVERETT RICHARDS  
as Lessor

in the presence of:  
*[Signature]*  
EXECUTED by the said  
PETER EVERETT RICHARDS as)  
Lessee in the presence of:  
*[Signature]*  
*Resol. made by the*  
*Vallet Heale, Pater Salter*

\* The words "the said building" shall be deleted and replaced with the words "any building on the said land" unless the wording of the clause so affected specifically states otherwise.

SCHEDULE A (Lessees Covenants)

THE LESSEE DOTH HEREBY COVENANT WITH THE LESSORS:

1. PAYMENT OF RENT

To pay the rent in the manner and at times hereinbefore provided.

2. PAYMENT OF MAINTENANCE EXPENSES

The Lessee shall forthwith upon demand in writing by the Lessors or their agent pay to the Lessors or a person nominated by the Lessors or a majority of the Lessors:

- (a) ~~A Flat share of all costs and expenses properly incurred by the Lessors in respect of the said building including any costs and expenses incurred pursuant to Clause 17 (a) and (b) hereof.~~ Flat
- (b) A Land share of all costs and expenses properly incurred by the Lessors in respect of the said ~~land including any costs and expenses incurred pursuant to Clause 17 (a) and (b) hereof.~~ land including any costs and expenses incurred pursuant to Clause 17 (a) and (b) hereof.

PROVIDED ALWAYS that should any repairs become necessary or any work be required in respect of any part of the said building or the electrical and plumbing equipment, drains or other amenities serving the said building or in respect of any part of the said land as a result of the negligence or wilful act either of the Lessee or his servants, agents or invitees or of any person residing in the Flat then in any such event the Lessee shall pay to the Lessors the whole of the cost of such repairs or work.

3. RESTRICTIONS ON USE

The Lessee shall use the Flat for residential purposes only and will not do or suffer to be done any act, matter or thing which is or may be an annoyance, nuisance grievance or disturbance to the other lessees or occupants of any building on the said land and shall not bring into or keep in the Flat any cat, dog, bird or other pet which may unreasonably interfere with the quiet enjoyment of the other lessees or occupants of any building on the said land or which may create a nuisance.

4. NOT TO CREATE FIRE OR OTHER HAZARDS

The Lessee shall not bring into or keep in the Flat any goods or any substance of a highly combustible nature or do or permit to be done anything (including the unauthorised use of light or power fittings) which may render an increased premium payable for any insurance cover on any part of the said building or which may make void or voidable any such insurance cover.

5. TO COMPLY WITH STATUTES

The Lessee shall not use the Flat for any illegal purposes and the Lessee shall comply with all Statutes, Regulations and By-Laws of any Local Authority in so far as they affect the Flat.

6. (a) MAINTENANCE OF EXTERIOR AND INTERIOR BY LESSEE

The Lessee shall at his own cost and expense keep and maintain in good order condition and repair both the interior and exterior of the Flat including any electrical and plumbing equipment, drains, roof, spouting, downpipes and other amenities serving the Flat PROVIDED HOWEVER that where any part of the Flat or the electrical and plumbing equipment drains or other amenities serving the Flat also relate to or serve (a) any other flat in any building erected on the said land or (b) any part of any such building which the Lessors are liable to maintain pursuant to this Lease, then the same shall be maintained in good order condition and repair by the Lessee together with (a) the lessees of the other flats to which the same relate or which are served thereby and (b) the Lessors where the same relate to or serve any part of any such building AND the cost of so doing shall be borne by the Lessee, the lessees of such other flats and the Lessors as the case may be in such shares as may be fair and reasonable having regard to the use and benefit derived therefrom.

~~6. (b) MAINTENANCE OF INTERIOR ONLY BY LESSEE~~

~~The Lessee shall at his own cost and expense keep and maintain in good order condition and repair the interior of the Flat (including the doors, windows and fittings of any kind but not any part of the structure, frame, walls or foundations) together with any electrical and plumbing equipment and any fittings exclusively relating to or serving the Flat.~~

7. INSPECTION BY LESSORS

The Lessee shall permit the Lessors or their representatives at all reasonable times to enter the Flat to inspect the condition of the same.

8. TO KEEP COMMON AREAS CLEAR AND TIDY

The Lessee shall not leave or place in the passageways or stairways of the said building or in any parking area or in the grounds surrounding any building on the said land any obstructions whatsoever and shall not deposit any refuse or rubbish therein or thereon and shall place any rubbish containers in such reasonable location approved by the Lessors.

9. TO PAY FOR SERVICES TO FLAT

The Lessee shall duly and punctually pay all charges for water electricity gas or other supplies or services relating solely to the Flat.

10. NOT TO MAKE STRUCTURAL ALTERATIONS

The Lessee shall not make any structural alterations to the ~~Flat~~ Flat nor erect on any part of the said land any building, structure or fence without the prior consent of the Lessors first had and obtained on each occasion PROVIDED HOWEVER that such consent shall not be unreasonably withheld.

11. USE OF EXCLUSIVE AND COMMON AREAS

The Lessee shall not without the written consent of the Lessors in any way use or enjoy any part of the said land except: (a) The Flat (b) That part of the said land relating to the Flat marked or shown "C" on Deposited Plan No. 158567 ; (c) That part of the said land marked or shown common area on Deposited Plan No. 158567 but only for the purposes of reasonable ingress and egress by vehicle or on foot;

12. PRESERVATION OF LESSEES EXCLUSIVE AREA

The Lessee shall at all times keep all that part of the said land (and all amenities thereon) relating to the Flat marked or shown "C" on Deposited Plan No. 158567 in a neat and tidy condition and in good repair.

13. (a) SEPARATE INSURANCE EFFECTED BY LESSEE

The Lessee shall effect and at all times keep current a separate and comprehensive insurance policy (including fire and earthquake risks) to the full insurable value thereof on ~~each part of the said building as each Lessee holds or occupies.~~

OR

SPACES TO BE COMPLETED AND AMENDED AS NECESSARY

RR

RR

RR

RR

~~13. (b) PAYMENT OF PREMIUM ON REPLACEMENT POLICY EFFECTED BY LESSORS  
The Lessee shall pay to the Lessors or a person nominated by the Lessors a majority of the Lessors a Flat share of the  
and other moneys payable in respect of the policy of insurance to be effected by the Lessors pursuant to Clause 20 (b) hereof  
PROVIDED THAT in any case whereby arrangement between the Lessors and the insurance company the premium in respect of  
each Flat in the said building shall be assessed and payable separately then the Lessee shall pay the separate premium whenever  
the same is due direct to the insurance company and shall if and whenever required by the Lessors produce to the Lessors the  
receipts for payment of the same~~

14. LESSEES OWNERSHIP OF SHARE IN FEE SIMPLE  
The Lessee shall remain the owner of a Land share in the fee simple of the laid land while he continues to be a Lessee hereunder.  
If the Lessee (unless by these presents expressly authorised so to do) shall deal with either his interest hereunder or his interest in  
the fee simple in such a manner that both leasehold and freehold interests are not owned by the same person then this Lease shall  
immediately determine without however discharging the Lessee from payment of any moneys owing hereunder or releasing him from  
liability arising from any other breach previously committed provided always that this Clause shall not apply to the first Lessee  
hereof.

15. PAYMENT OF RATES  
The Lessee shall pay all charges and rates separately charged or levied in respect of the Flat and the Lessee's undivided share in  
the fee simple of the said land PROVIDED HOWEVER that if no separate charges and rates are so charged or levied then the Lessee  
shall pay to the Lessors the Lessee's Land share of the charges and rates charged or levied in respect of the whole of the said land.

SCHEDULE B (Lessors Covenants)

THE LESSORS DO AND EACH OF THEM DO TH HEREBY COVENANT WITH THE LESSEE:

16. QUIET ENJOYMENT  
The Lessee performing and observing all and singular the covenants and conditions on his part herein contained and implied shall  
quietly hold and enjoy the Flat without any interruption by the Lessors or any person claiming under them.

17. MAINTENANCE BY LESSORS  
The Lessors shall keep and maintain in good order repair and condition:  
(a) Such parts of the said building as are not the responsibility of any lessee pursuant to the leases granted in respect of any flat  
forming part of the said building including the electrical and plumbing equipment, drains, roofs, spouting, downpipes and other  
amenities serving the same; and  
(b) Such parts of the said land including the grounds, paths, fences, swimming pools and other common amenities thereon as are  
not the responsibility of any lessee pursuant to the leases granted in respect of any flat.  
AND will cause the aforesaid parts of the said building and the said land at all times to be managed and maintained to a high  
standard. In the performance of the foregoing covenants the Lessors or their agents shall have the right (if necessary) to enter  
the Flat in order to effect such work upon giving reasonable notice to the Lessee.

18. LEASES OF OTHER FLATS  
The Lessors shall lease the other flats on the said land only on terms similar to those set forth in this Lease and whenever called  
upon by the Lessee so to do to enforce the due performance and observance by the lessees named in such other leases of all obliga-  
tions as by such other leases are cast on such lessees and for the purposes aforesaid the Lessors do irrevocably hereby appoint the  
Lessee hereunder for the time being as the Attorney and in the name of the Lessors to do all such acts and in particular but not in  
limitation to serve such notices and institute such proceedings as may be necessary for the proper compliance by the Lessors of  
the obligations cast on them by this Clause.

SCHEDULE C (Mutual Covenants)

AND IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND EACH OF THEM AND BY AND  
BETWEEN THE LESSORS AND THE LESSEE:

19. DETERMINATION OF LEASE FOR DEFAULT  
That if and whenever the Lessee shall have made any breach or default in the observance or performance of any of the covenants  
conditions and restrictions herein contained and shall not have remedied such breach or default in all respects within two months  
of the date of receipt by the Lessee of written notice from the Lessors (other than the Lessee) specifying such breach or default  
then it shall be lawful for the Lessors (other than the Lessee) to re-enter the Flat or any part or parts thereof in the name of  
the whole and to determine this Lease and the estate and interest of the Lessee herein and to expel and remove the Lessee but  
without thereby releasing the Lessee from any liability for any previous breach non-observance or non-performance of any of the  
said covenants conditions and restrictions PROVIDED HOWEVER that any such forfeiture or determination shall be void and of  
no effect unless a copy of the notice specifying the breach or default by the Lessee has been served on every mortgagee of this  
Lease where the Lessors have actual notice of the address of the Mortgagee before or within seven days after the date of service  
of such notice upon the Lessee.

20. (a) RE-INSTATEMENT BY LESSEE (where Clause 13(a) applies)  
That in the event of the Flat being destroyed or damaged by fire earthquake or from any cause whatsoever during the term  
hereby created the Lessee shall with all reasonable despatch repair and make good such destruction or damage to the reasonable  
satisfaction of the Lessors and the cost of so doing shall be borne by the Lessee AND in the event of such destruction or damage  
occurring in respect of any part of the said building not held by a lessee pursuant to any lease then the Lessors shall with all reason-  
able despatch repair and make good such destruction or damage and the Lessee shall bear a Flat share of the cost of so doing.

OR

~~20. (b) RE-INSTATEMENT BY LESSORS (where Clause 13(b) applies)  
That the Lessors shall in the name of the Lessors and Lessee for their respective rights and interests insure and keep insured  
the said building against fire and earthquake and such other risks as are normally covered under a comprehensive House-  
owners policy for the full amount available under a replacement policy and shall pay the premiums on such policy as the same  
become due AND in the event of the said building being damaged or destroyed by any cause whatsoever the Lessors shall with all  
reasonable despatch repair and make good such destruction or damage and in the event of the moneys received under the said  
policy of insurance being insufficient to repair and re-instate the said building as aforesaid then the Lessee shall bear a Flat share of  
such insufficiency unless such damage or destruction was caused by the negligence of one or more of the Lessors in which case  
the insufficiency shall be borne by that party or those parties~~

RR

**21. LESSORS NOT LIABLE FOR WATER DAMAGE**

That the Lessors shall not be liable to the Lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the Flat or by rainwater entering the Flat.

**22. (a) SUBLETTING BY LESSEE**

The Lessee shall be entitled to let the Flat only to a reputable and solvent subtenant and the Lessee shall ensure that the subtenant first enters into a Tenancy Agreement with the Lessee whereby the subtenant covenants not to do or permit anything to be done in upon or around the Flat which if done or permitted to be done by the Lessee would constitute a breach of any of the covenants conditions and restrictions herein contained.

~~**22. (b) RESTRICTED SUBLETTING BY LESSEE**~~

~~The Lessee shall not without the prior consent in writing of the Lessors or a majority of the Lessors first had and obtained for that purpose on every occasion sublet or part with the possession or occupation of the Flat or any part thereof but such consent shall not be unreasonably or arbitrarily withheld in any case where:-~~

- ~~(a) the proposed subletting is for a term not exceeding one year during which the Lessee is unable to personally occupy the Flat and,~~  
~~(b) the proposed subletting is to a reputable and solvent person who first enters into a Deed of Covenant with the Lessors to observe and fulfil all the obligations of the Lessee hereunder and to be bound by the provisions of this present clause such Deed of Covenant to be prepared by the solicitor for the Lessors at the cost and expense of the Lessee.~~

~~Any underletting within the meaning of Sub-section (2) of Section 109 of the Property Law Act 1952 without such consent as aforesaid shall constitute a breach of this present clause.~~

**23. PERFORMANCE OF LESSEES COVENANTS BY LESSORS**

That in case of default by the Lessee at any time in the observance or performance of any of the covenants conditions and restrictions herein contained it shall be lawful but not obligatory upon the Lessors or a majority of the Lessors (but without prejudice to any of the other rights powers or remedies of the Lessors) at the cost and expense of the Lessee in all things to pay all or any moneys and to do and perform all or any acts or things in the opinion of the Lessors or a majority of the Lessors reasonably necessary for the full or partial performance or observance of such covenants conditions or restrictions or any of them and if necessary or convenient for the purpose of exercising any of the powers herein conferred upon the Lessors to enter by Servants agents contractors or workmen upon the Flat or any part thereof AND the Lessee will immediately on demand pay to the Lessors all moneys so paid by the Lessors and the costs charges and expenses of each performance and observance by the Lessors and until such payment the same shall be treated as an advance to the Lessee by the Lessors and shall bear interest at the rate of Ten dollars (\$10) per centum per annum computed from the date or respective dates of such moneys being expended until payment thereof to the Lessors PROVIDED HOWEVER that for the purposes of this Clause 23 the word "Lessors" shall be deemed to mean Lessors other than the Lessee.

**24. POWER OF SALE OF LESSEES FLAT BY LESSORS**

That in the event of this lease being determined in the manner herein provided then in any such case:-

- (a) the Lessee shall at the direction of the Lessors sell his share in the fee simple of the said land to such person and at such consideration as may be nominated by the Lessors and shall execute all such documents as shall be required to complete any such sale; and  
(b) the Lessors shall use reasonable endeavours to obtain a fair market price for the Lessee's said share in the fee simple but shall not be liable to the Lessee in respect of any loss howsoever incurred; and  
(c) the proceeds of such sale shall be paid to the Lessors who shall be entitled to deduct therefrom all moneys owing by the Lessee to the Lessors and also all expenses and costs howsoever incurred by the Lessors in connection with the arranging of such sale and the completion thereof, and any balance of such proceeds shall be paid to the Lessee by the Lessors;

AND the Lessee doth hereby irrevocably appoint the Lessors to be the Attorneys of the Lessee for the purpose of doing any act matter or thing or executing any document required in connection with the sale of the Lessee's said share in the fee simple (in the event of the Lessee making default in so doing) and no person shall be concerned to see or enquire as to the propriety or expediency of any act matter or thing done or agreed to be done by the Lessors pursuant to this Clause AND the Lessee hereby agrees to allow ratify and confirm whatever the Lessors shall do or agree to do by virtue of any of the powers herein conferred on them PROVIDED HOWEVER that for the purposes of this Clause 24 the word "Lessors" shall be deemed to mean Lessors other than the Lessee.

**25. NON-MERGER**

That there shall be no merger of this Lease with the Lessee's freehold estate in the said land.

**26. ARBITRATION**

That if any dispute or question or difference whatsoever shall arise between the parties to this Lease or their respective representatives or assigns or between one of the parties hereto and representatives of the other of them relating to these presents or any clause or anything herein contained or the construction hereof or as to duties or liabilities of either party in connection with the said land, the said building or the Flat or as to the use or occupation thereof then and in every such case the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1968 and its Amendments or any Act in substitution therefor.

**27. PROCEDURE FOR DECISIONS**

That in the event of the Lessee or any Lessor requiring any matter or thing to be done by the Lessors which the Lessors are empowered to do pursuant to the terms of this Lease or pursuant to their rights and powers as owners of the said land and the buildings thereon or which may be desirable for the efficient and harmonious administration of the said land and the buildings thereon the following procedure shall be carried out:-

- (a) Such Lessee or Lessor shall give notice thereof in writing setting out the proposed action and shall cause the same to be served upon all the other Lessors either personally or by leaving the same at or posting the same to the last known respective place of abode or address of the other Lessors and in the event of such notice being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof.  
(b) If the proposed action is not agreed to unanimously within fourteen days after the last date of service of the said notices that matter shall be deemed to be a question to be arbitrated pursuant to Clause 26 hereof.  
(c) The parties hereto shall be bound by any decision arrived at in accordance with the provisions of this Clause and the parties hereto shall give all reasonable assistance in the carrying out and implementation of such decision.

RL

~~28. COLOUR SCHEME~~

~~That notwithstanding the provisions of Clause 27 hereof, any exterior painting of the said building shall be carried out in such a colour scheme as is agreed upon by the Lessors but if agreement cannot be reached then the colour scheme shall be as near as is practicable to the existing colour scheme.~~

29. NON-DEVOLUTION OF LIABILITY

That without negating the provisions of Sections 97 and 98 of the Land Transfer Act 1952, upon registration of a Memorandum of Transfer of the Lessee's interest hereunder to any Transferee, the Transferor shall thenceforth be released from all future liability whatsoever under the covenants and agreements herein expressed or implied but without releasing the Transferor from any liability which may have arisen hereunder prior to the registration of such Memorandum of Transfer and thenceforth after the registration of any such Memorandum of Transfer the obligations herein expressed or implied on the part of the Lessee shall in all respects devolve upon and be observed and performed by such Transferee, and the Lessors shall have no recourse to the Transferee's antecedents in title.

30. INTERPRETATION

That wherever used in these presents:-

- (a) The expression "the Lessors" shall include and bind the person/s executing these presents as Lessors and all the Lessors for the time being under these presents and all the respective executors administrators successors assigns and successors in title of each Lessor and if more than one jointly and severally.
- (b) The expression "the Lessee" shall include and bind the person/s executing these presents as Lessee and all the Lessees for the time being under these presents and all the respective executors administrators successors assigns and successors in title of each Lessee and if more than one jointly and severally.
- (c) The expression "a majority of the Lessors" shall be deemed to mean any number of Lessors for the time being who together own more than an undivided one-half share in the fee simple of the said land.
- (d) Words importing one gender shall include the other gender as the case may require.
- (e) Words importing the singular or plural number shall include the plural or singular number respectively.
- (f) The clause headings shall not form part of this Lease and shall have no bearing on the construction or interpretation of the same.

RL

~~SCHEDULE D (Special Covenants for Leasehold Estates)~~

~~1. IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEES AS FOLLOWS:-~~

(a) Interpretation

- (i) The expression "Head Lease" means the Memorandum of Lease referred to in the Schedule of Land and Flat and the expressions "Head Lessor" and "Leasehold Estate" shall have corresponding meanings.
- (ii) The expressions "fee simple" "freehold interest" and "freehold estate" where they occur in Schedules A, B & C hereof shall unless inconsistent with the context refer to and include the leasehold estate.

(b) Lessee to pay share of Head Lease rental

That the Lessee will upon demand in writing by the Lessors pay to the Lessors or a person nominated by the Lessors or a majority of the Lessors a Land share of the rental from time to time payable under the Head Lease and any other moneys expended by the Lessors in the performance of their obligations thereunder or in or about any renewal thereof as hereinafter provided.

(c) Lessee to observe terms of Head Lease

That the Lessee will from time to time and at all times observe perform and keep all and singular the covenants agreements and conditions contained and implied in the Head Lease so far as they affect the Flat and will save and keep harmless and indemnify the Lessors from and against all costs claims damages expenses actions and proceedings for or on account of breach of covenant or otherwise under the Head Lease as shall be occasioned by breach by the Lessee of any covenant condition or agreement herein contained or implied and on his part to be observed performed or fulfilled.

(d) Lessors to pay Rent and observe Covenants:

That the Lessors shall and will throughout the term hereby created pay the rent reserved by and duly and punctually perform and observe all and singular the covenants and provisions expressed or implied in the Head Lease and on the part of the Lessee thereunder to be performed and observed and will not do omit or suffer any act or thing whereby or in consequence whereof the power of re-entry into possession or any of the incidental ancillary or subsidiary powers vested in the Head Lessor by the Head Lease shall or may become exercisable.

(e) Rights of Renewal

That the Lessors will from time to time and so often as the same shall require to be done and at all proper times for so doing give all such notices do all such things execute all such documents and pay all such costs, charges and expenses as shall or may be necessary or desirable to procure from the Head Lessor the renewal of the Head Lease and of every lease so procured AND when and so often as the Head Lessor shall grant and execute unto the Lessors hereunder a new Head Lease as aforesaid the Lessors hereunder will at the cost and expense of the Lessee hereunder deliver unto the Lessee hereunder and the Lessee hereunder shall accept and take in substitution for this present sublease or (as the case may be) for the then last preceding sublease of the Flat for the term of such newly granted head lease less the last day thereof a sublease at the same Flat share of rental and upon with and subject to the same covenants agreements conditions and provisions as are herein contained and implied including this present clause AND for the better enabling the Lessee hereunder to secure and enjoy the benefit of this present Clause the Lessors for the time being hereunder DO HEREBY JOINTLY AND EACH OF THEM DO TH SEVERALLY IRREVOCABLY NOMINATE CONSTITUTE AND APPOINT the Lessee for the time being hereunder the Attorney for them and each of them and in their name and in the name of each of them to give all such notices and to do all such acts matters and things and to make all such appointments and to pay all costs, charges and expenses and to give, make execute and deliver all such documents and paper writings as shall for all or any of the purposes aforesaid be desirable necessary or expedient.

31.(a) THAT the Lessors other than the Lessee shall not during the term hereby created be entitled to use occupy or enjoy that part of the said land adjacent to the flat shown marked "C" in Deposited Plan 158567 (hereinafter called "the said area" TO THE INTENT that the foregoing restrictive covenant shall at all times during the term hereof remain appurtenant to the estate and interest of the Lessee in that flat for all purposes connected with the use occupation and enjoyment thereof AND the Lessee shall at all times keep the said areas in a neat and tidy condition and in good repair PROVIDED THAT the Lessors shall be entitled to enter upon the said area to the extent that may be necessary in order to effect repairs and maintenance to such flat or building forming part of any building on the said land or to any services to such flat or building relating thereto.

*PK.*

**REGISTERED IN DUPLICATE  
TO THE DISTRICT LAND REGISTRAR**

1. It is required that you note the Lessors' Land Covenant contained in Clause 20 of the within lease against the fee simple title to the land.
2. Please issue a composite Certificate of Title for the share in the fee simple and leasehold interest of Flat 2 Certificate of Title 95A/623 having been allocated.
3. I hereby certify, for the purpose of the Stamp and Cheque Duties Act 1971, that no lease duty is payable on this instrument by reason of the application of section 35(1) of the Act, and that the provisions of subsection (2) of that section do not apply.

.....  
Solicitor for the Lessee

# LEASE

Composite Certificate of Title issued  
Register 95A/623  
Including 1/2 share in fee simple

VALLANT HOOKER & PARTNERS  
SOLICITORS  
AUCKLAND

Correct for the purposes of the Land Transfer Act.

.....  
Solicitor for the Lessee

Particulars entered in the Register as shown in the Schedule of Land herein on the date and at the time stamped below.

District  
Assistant Land Registrar  
of the District of Wellington

ARTICULARS ENTERED IN REGISTER  
LAND REGISTRY  
ASST. LAND REGISTRAR  
751  
68  
70  
NORTH AUCKLAND NEW ZEALAND

10.49 27.JAN.94 C 562014

2E

674095 NE  
 24-I-62 123338  
 01011870  
 T 6728 62  
 19/12/61  
 Stamp Duty AKQ  
 Denoting

(Approved by the District Land Registrar, Auckland, No. 3360)

New Zealand

Under the Land Transfer Act, 1952

**Memorandum of Transfer**

WHEREAS, CECIL REX MOORE of Auckland, Company Director (hereinafter called "the Transferor") . . . . .  
 . . . . . being registered as proprietor  
 of an estate of freehold in fee-simple . . . . .

subject however to such encumbrances, liens and interests as are notified by memoranda underwritten or endorsed hereon in all those pieces of land situated

in the Land District of Auckland containing:  
FIRST: ONE ROOD SIXTEEN DECIMAL FIVE PERCHES (0a.1r.16.5ps) more or less being Lot 3 on Deposited Plan 49712 being Part of Allotment 123 of the Parish of Waikomiti and being part of the land . . . comprised and described in Certificate of Title Volume 1602 Folio 54 Auckland Registry.

SECONDLY: ONE ROOD TWENTY ONE DECIMAL SEVEN PERCHES (0a.1r.21.7ps) more or less being Lot 2 on Deposited Plan 49712 being Part of . . . Allotment 123 of the Parish of Waikomiti and being part of the . . . land comprised and described in Certificate of Title Volume 1602 . . . Folio 54 Auckland Registry.

THIRDLY: THREE ACRES TWO ROODS THIRTY SEVEN PERCHES (3a.2r.37ps) / more or less being part of Lots 5 and 10 on Deposited Plan 40759 . . . being part of Allotment 123 of the Parish of Waikomiti and being . . . the residue of the Certificate of Title Volume 1602 Folio 54 . . . Auckland Registry after excluding thereout the land FIRST and . . . SECONDLY hereinbefore described

AND WHEREAS by agreement for sale and purchase dated the 5th . . . day of October 1960 the Transferor did agree to sell to DIXIE CONSTRUCTION LIMITED a duly incorporated Company having its registered office at Auckland (hereinafter called "the Transferee") . . . the whole of the lands above-described at and for the purchase . . . price of FOUR THOUSAND ONE HUNDRED AND FIFTY POUNDS (£4150.0.0d.).

AND WHEREAS certain moneys have been paid by way of deposit and as part payment of the said purchase moneys under the said agreement.

AND WHEREAS it was provided by the said agreement that the Transferor would execute and hand to the Transferee a Transfer of the . . . land first above-described upon payment to him of a further sum of THREE HUNDRED POUNDS (£300.0.0d).

NOW THIS TRANSFER WITNESSETH that IN CONSIDERATION OF the premises the Transferor DOETH HEREBY TRANSFER unto the Transferee all his . . . right, title and interest in the said piece of land first hereinbefore described PROVIDED HOWEVER that the Transferor shall not be liable for nor be called upon to erect or maintain or contribute . . . towards the cost of erection or maintenance of any dividing or . . . boundary fence between the land hereby transferred and any adjoining land belonging to him but this proviso shall not enure to the benefit of any purchaser or purchasers from him of such adjoining land or any part thereof and FOR THE CONSIDERATION aforesaid the . . . Transferor DOETH HEREBY TRANSFER and grant unto the Transferee its . . . Executors, Administrators and Assigns and to its Servants, Agents, Workmen and Visitors and to all persons having business with it . . . or them a FREE AND PERPETUAL RIGHT OF WAY ingress egress or regress on horseback or on foot and with or without implements and vehicles of every description loaded or unloaded by night as well as by day IN OVER AND UPON that part of the said Lot 2 secondly hereinbefore described coloured blue on the said Deposited Plan for the . . . purpose of giving access to and from the land first hereinbefore . . .

men of  
 transfer  
 123-0-35-8  
 21/12/61

✓  
 ✓  
 - over 5.  
 Lot 2  
 ↓  
 Lot 3  
 AGREEMENT, TRANSFER, etc.  
 Paid with duty of  
 £45.13s.0d on 21/12/61  
 12 3 1 00 1 1  
 Dist. Comm. Secy of Lands Dept.  
 Auckland



described and any part thereof and to and from the public road delineated on the said Deposited Plan and abutting the said land secondly hereinbefore described such easement of Right of Way hereby created being in common .... with any other person or persons from time to time entitled to any easement of Right of Way over the said part of the land secondly hereinbefore described or any part thereof TO THE INTENT that such easement or Right of Way shall be forever appurtenant to the land first hereinbefore described ..... RESERVING NEVERTHELESS to the Transferor his Executors Administrators and.. Assigns and to his Servants Agents Workmen and Visitors and all persons having business with him or them a SIMILAR FREE AND PERPETUAL RIGHT OF WAY .. ingress egress or regress on horseback or on foot and with or without implements and vehicles of every description loaded or unloaded by night as well as by day IN OVER AND UPON that part of the said Lot 3 (being the land ... first hereinbefore described ) coloured yellow on the said Deposited Plan TO THE INTENT that the Right of Way hereby reserved shall be forever appurtenant to the land secondly hereinbefore described AND RESERVING FURTHER .. to the Vendor his Executors Administrators and Assigns and the other ..... registered proprietor or proprietors from time to time of all that piece .. of land thirdly hereinbefore described a FULL FREE AND UNINTERRUPTED right, liberty and licence at all times and from time to time hereafter to direct, divert, drain and discharge storm and surface water including rain, tempest spring, soakage and seepage water in any quantities, into, through, over and across that part of the land first hereinbefore described marked .. "Drainage Easement" on the said Deposited Plan 49712 and thereon coloured.. blue and yellow by means of any drains, conduits or pipes already installed or hereinafter to be installed in place of or in addition to any existing pipes, conduits or drains or any part or parts thereof and for any of the purposes aforesaid and from time to time to dig, construct, lay, extend, maintain, alter, repair, renew and cleanse open drains, pipes, conduits, over, through along or under, and to construct manholes upon and in the said portion of . the said Lot 3 shown coloured blue and yellow as aforesaid, and from time to time to inspect, repair, cleanse, dig-up, alter, enlarge, renew and replace the said drains, water pipes, conduits and manholes, and for the purposes ..... aforesaid either personally or by the representatives agents, servants, ... workmen and employees of the Transferor with or without vehicles and with all necessary tools, equipment and implements, to enter upon the said Lot 3 at all reasonable times and generally to do and perform all such acts or things as may be necessary or convenient for the full and proper exercise of the rights and privileges hereby reserved PROVIDED HOWEVER AND IT IS HEREBY AGREED AND DECLARED that all works authorised to be carried out hereunder shall be carried out as expeditiously as possible and with as little ..... disturbance as possible to the surface of the said Lot 3 PROVIDED HOWEVER that the Transferor shall not be responsible for any damage caused by the exercise by him of the rights herein conferred upon him or by the deposit of silt or debris on the said land or any part or parts thereof AND IT IS HEREBY AGREED AND DECLARED that nothing herein contained or implied shall compel or be deemed to compel the Transferor to carry, convey, direct, conduct, divert, drain or discharge water through open drains pipes or conduits on the said part of Lot 3 AND THAT the Transferor may discontinue such ... drainage and recommence the same at will AND THAT nothing herein contained or implied shall abrogate, limit, restrict, or abridge or be deemed to .... abrogate limit, restrict or abridge any of the rights power or remedies .. vested in the Transferor hereunder AND THE TRANSFEREE DOTH HEREBY COVENANT with the Transferor not hereafter at any time, to do, commit or suffer any act or thing which will affect or in any way interfere with the full and .. free passage of water through the said portion of the said Lot 3 or to .... prevent or interfere with the full and free use and enjoyment of the rights and privileges hereby granted.

Lot 2  
to Lot 3  
Lot 3  
to Lot 2  
Lot 3  
to res. de.  
\* and from whatever source the said waters may be received on to the land thirdly described.  
SAX

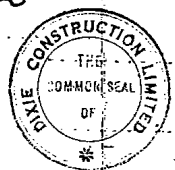
blue  
yellow

IN WITNESS WHEREOF this Transfer has been executed this 14th day of ..  
December One thousand nine hundred and sixty-one (1961).

SIGNED by the said CECIL REX MOORE as Transferor in the .. presence of: *[Signature]*

*[Signature]*

THE COMMON SEAL of DIXIE CONSTRUCTION LIMITED was .. hereunto affixed in the presence of:



*[Signature]* Director  
v  
*[Signature]* Director

674095

164  
Correct for the purposes of the Land Transfer Act.

No.

TRANSFER OF

*P. Clammer*  
Solicitor for the Transferee

C.R. MOORE. Transferor

DIXIE CONSTRUCTION LTD. Transferee

*check file  
2/1/62*

Particulars entered in the Register-Book Vol.

Folio 1602/54  
the 30th day of January 1962  
at 11.55 o'clock



*W.R. Willis*  
Assistant Land Registrar  
of the District of Auckland.

*Please note  
the whole of the  
written easements  
are available  
except as to adjacent  
written easements  
with respect to  
lot 10.*

The easements created by the within  
Transfer are subject to the provisions  
of Section 351 E (A) of  
the Municipal Corporations Act  
1964.  
*W.R. Willis*  
A.L.R.

The easements created herein over part  
lots <sup>2 and 3</sup> Plan 49712 as appurtenances to  
lots <sup>2 and 3</sup> Plan 49712 and part lot 5  
Plan 40759 have merged as to  
the part lots <sup>2 and 3</sup> Plan 49712 as now  
contained in lot 1 Plan 52994.

2026/15  
See transfer A. 78196. *W.R. Willis*

A.L.R.  
21.5.1965.

LAND & DEEDS  
Name: *Simpson Coates*  
30 JAN 1962  
Time: 11.55  
Fee: 4/2  
Abstract No. 0551

D963374

Solicitors for the Transferee

SIMPSON, COATES & CLAPSHAW, AUCKLAND.

THE LAW SOCIETY OF THE DISTRICT OF AUCKLAND



*See back*  
 L. & D. 82  
 New Zealand

A78193EC

(T)

**EASEMENT CERTIFICATE**

(IMPORTANT—Registration of this certificate does not of itself create any of the easements specified herein.)

I, WILLIAM WALTER SMITH Crane Driver and TE OTINGA JEAN SMITH his wife  
 and SYDNEY HERBERT GRAY SMITH Photo Engraver and STEPHANIE ENID ..  
SMITH his wife and DIXIE CONSTRUCTION LIMITED all of whom are of ..  
 Auckland

being the registered proprietor of the land described in the Schedule hereto hereby certify that the easements specified in that Schedule, the servient tenements in relation to which are shown on a plan of survey deposited in the Land Registry Office at Auckland on the 4th day of April 1964 under No. 52994 are the easements which it is intended shall be created by the operation of section 90A of the Land Transfer Act 1952.

SCHEDULE

DEPOSITED PLAN No. 52994

*Plan with Mr. Williams*  
*conditional*  
*not cond. ...*

Nature of Easement (e.g., Right of Way, etc.)	SERVIENT TENEMENT		Dominant Tenement Allotment No(s).	Title Reference
	Allotment No.	Colour, or Other Means of Identification, of Part Subject to Easement		
Right of Way	1	yellow	2, 3	2043/60 2026/15 1B/1160
	2	blue	1, 3	
	3	blue	1, 2	

1. Rights and powers:

State whether any rights or powers set out here are in addition to or in substitution for those set out in the Seventh Schedule to the Land Transfer Act 1952.



2105

2. Terms, conditions, covenants, or restrictions in respect of any of the above easements:

*Dated this 4th day of May 1965*

SIGNED by the said WILLIAM WALTER SMITH and TE OTINGA JEAN SMITH in the presence of:

*M. B. Cole*  
*Solicitor*

*Auckland*

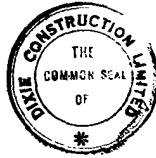
*W. W. Smith* ✓  
*W. W. Smith*

SIGNED by the said SYDNEY HERBERT SMITH and STEPHANIE ENID SMITH in the presence of:

*S. H. Smith* ✓  
*S. E. Smith* ✓

*Dominion*  
*Robert*  
*Auckland*

THE COMMON SEAL of DIXIE CONSTRUCTION LIMITED was hereto affixed in the presence of:



*A. J. Jones* - Secretary

*H. H. ...* Director

Dated this \_\_\_\_\_ day of \_\_\_\_\_

19

Signed by the above named in the presence of \_\_\_\_\_

Witness: .....

Occupation: .....

Address: .....

A 78193

No.

# EASEMENT CERTIFICATE

affecting land

situated in the land Registration District  
of North Auckland

Particulars entered in the Register-book S

Vol. **18**, folio **1160**  
**2026/15 and 2043/60**  
the **24th** day of **May** 1965  
at **11.25** o'clock.



*100 W. W. W. W.*  
District Land Registrar  
Assistant

of the District of **North Auckland**

*Part of* The easements referred to herein when created will be subject to section 351E (a) of the Municipal Corporations Act 1954.

*100 W. W. W. W. A.L.L.*

LAND & DEEDS	
Name:	<i>Lease Cert</i>
Date:	<i>24 MAY 1965</i>
Time:	<i>11.25</i>
Page:	<i>3</i>
Abstract No.:	<i>2069</i>

SIMPSON, COATES & CLAPSHAW

*230*

Correct for the purposes of the Land Transfer Act.

*M. B. Lee*  
Solicitor for the Registered Proprietor.

*See also...*

## RIGHTS AND POWERS OF GRANTEES IMPLIED IN CERTAIN EASEMENTS BY SECTION 90D OF THE LAND TRANSFER ACT 1952

### "1. RIGHT OF WAY

The full, free, uninterrupted, and unrestricted right, liberty, and privilege for the grantee, his servants, tenants, agents, workmen, licensees, and invitees (in common with the grantor, his tenants, and any other person lawfully entitled so to do) from time to time and at all times by day and by night to go pass and repass, with or without horses and domestic animals of any kind and with or without carriages, vehicles, motor vehicles, machinery, and implements of any kind, over and along the land over which the right of way is granted or created.

### "2. RIGHT TO CONVEY WATER

The full, free, uninterrupted, and unrestricted right, liberty, and privilege for the grantee and his tenants (in common with the grantor, his tenants, and any other person lawfully entitled so to do) from time to time and at all times to take, convey, and lead water in a free and unimpeded flow (except when the flow is halted for any reasonable period necessary for essential repairs) and in any quantity, consistent with the rights of other persons having the same or similar rights, from the source of supply or point of entry, as the case may be, and following the stipulated course (where a course is stipulated) across the land over which the easement is granted or created, together with the additional rights incidental thereto set out in clause 5 of this Schedule.

### "3. RIGHT TO DRAIN WATER

The full, free, uninterrupted, and unrestricted right, liberty, and privilege for the grantee and his tenants (in common with the grantor, his tenants, and any other person lawfully entitled so to do) from time to time and at all times to drain and discharge water (whether rain, tempest, spring, soakage, or seepage water) in any quantities along the stipulated course (where a course is stipulated) across the land over which the easement is granted or created, together with the additional rights incidental thereto set out in clause 5 of this Schedule (or, where open drains are provided for, similar rights in regard to those drains, with the necessary modifications as are provided for in respect of pipe lines in the additional rights so set out).

### "4. RIGHT TO DRAIN SEWAGE

The full, free, uninterrupted, and unrestricted right, liberty, and privilege for the grantee and his tenants (in common with the grantor, his tenants, and any other person lawfully entitled so to do) from time to time and at all times to drain, discharge, or convey sewage and other waste material and fluid in any quantities along the stipulated course (where a course is stipulated) across the land over which the easement is granted or created, together with the additional rights incidental thereto set out in clause 5 of this Schedule.

### "5. ADDITIONAL RIGHTS ATTACHING TO EASEMENTS OF RIGHT TO CONVEY WATER AND OF RIGHT TO DRAIN WATER AND OF RIGHT TO DRAIN SEWAGE

The full, free, uninterrupted, and unrestricted right, liberty, and privilege for the grantee and his tenants (in common with the grantor, his tenants, and any other person lawfully entitled so to do) for the purposes of the easement concerned—

- (a) To use any line of pipes already laid on the stipulated course or any pipe or pipes in replacement or in substitution for all or any of those pipes:
- (b) Where no such line of pipes exists, to lay, place, and maintain, or to have laid, placed, and maintained, a line of pipes of a sufficient internal diameter and of suitable material for the purpose under or over the surface (as the parties decide) of the land over which the easement is granted or created and along the line defined for the purpose where such a line has been so defined:
- (c) In order to construct or maintain the efficiency of any such pipe line, the full, free, uninterrupted, and unrestricted right, liberty, and privilege for the grantee, his tenants, servants, agents, and workmen, with any tools, implements, machinery, vehicles, or equipment of whatsoever nature necessary for the purpose, to enter upon the land over which the easement is granted or created (or, where only the position of the pipe line is defined in the easement, upon such part of the land of the grantor and by such route as is reasonable in the circumstances) and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining, and renewing the pipe line or any part thereof and of opening up the soil of that land to such extent as may be necessary and reasonable in that regard, subject to the condition that as little disturbance as possible is caused to the surface of the land of the grantor and that the surface is restored as nearly as possible to its original condition and any other damage done by reason of the aforesaid operations is repaired."

