

View Instrument Details



Instrument No 8566292.5
Status Registered
Date & Time Lodged 20 August 2010 15:31
Lodged By Wang, Xi-Yu
Instrument Type Easement Instrument



Affected Computer Registers	Land District
515504	North Auckland
515505	North Auckland
515506	North Auckland
515507	North Auckland
515508	North Auckland

Annexure Schedule: Contains 6 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 7997984.2 has consented to this transaction and I hold that consent

Signature

Signed by Deborah June McNab as Grantor Representative on 20/08/2010 12:27 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 Steven Paul Graham as Grantee Representative on 20/08/2010 03:07 PM

*** End of Report ***

**Easement instrument to grant easement or profit à prendre,
or create land covenant**

Grantor

231 HUIA ROAD DEVELOPMENTS LIMITED

Grantee

VECTOR 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 covenants(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
Supply Electricity	Marked "M" on DP 429542	Lot 6 DP 429542 (Identifier 515508)	In Gross
Supply Electricity	Marked "N" on DP 429542	Lot 5 DP 429542 (Identifier 515507)	In Gross
Supply Electricity	Marked "G" on DP 429542	Lot 2 DP 429542 (Identifier 515504)	In Gross
Supply Electricity	Marked "DC" and "DH" on DP 429542	Lot 3 DP 429542 (Identifier 515505)	In Gross
Supply Electricity	Marked "DF" and "K" on DP 429542	Lot 4 DP 429542 (Identifier 515506)	In Gross

Easement instrument to grant easement or profit à prendre, or create land covenant

continued

Page 2 of 2 pages

Easement or profits à prendre, rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as 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~~ ~~negated~~ ~~added to~~ or ~~substituted~~ by:

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

~~[and/or the provisions set out in this Annexure Schedule]~~

Continued in additional Annexure Schedule, if required

Covenant provisions

Delete phrases in [] and insert memorandum number as 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]~~

~~[and/or the provisions set out in this Annexure Schedule]~~

Continued in additional Annexure Schedule, if required

Annexure Schedule

Insert type of instrument
 "Mortgage", "Transfer", "Lease" etc

Easement

Page 1 of 4 pages

(Continue in additional Annexure Schedule, if required.)

1. DEFINITIONS AND INTERPRETATION

1.1 In this instrument unless the context otherwise requires:

- (a) **"Accommodation"** means that building or other structure (if any) enclosing and/or surrounding the Substation from time to time including the foundation, floor, walls or enclosure, canopy, ceiling, lighting, plug socket outlets, cable ducts, access doors or other provision for entry and exit of the Substation (if any).
- (b) **"Easement Land"** means those parts of the Land specifically marked on the Plan and referred to in Schedule A of this instrument.
- (c) **"Emergency Situation"** means a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply or distribution of electricity or telecommunications and computer media.
- (d) **"Equipment"** includes the Substation (if any) and all pipes, ducting, cables (including fibre optic cables), meters and load management devices and conducting media, transformers and all other equipment which is situated on, in, over or under the Easement Land or which the Grantee requires to place on, in, over or under the Easement Land to carry out the Permitted Uses.
- (e) **"Land"** is the land comprised and described in the computer freehold register referred to in this instrument.
- (f) **"Land Code"** means the code of practice from time to time applying to the land based activities of organizations (including the Grantee) involved in the transmission and distribution of electricity and gas, and with respect to which the Grantee has agreed to be bound.
- (g) **"Permitted Uses"** are for the transmission and conducting of electric current for the benefit of the Land and any other land the conveyance and supply of telecommunications and computer media and for any other purpose reasonably required by the Grantee for the purposes of its business.
- (h) **"Plan"** is the deposited plan referred to in Schedule A of this instrument.
- (i) **"Rights"** are the full, free, uninterrupted and unrestricted ability and licence at all times to go on, over and under the Land to enter the Easement Land with or without vehicles, tools or machinery to:
- (i) undertake Works; and
- (ii) use the Equipment,
- provided that, except in the event of an Emergency Situation or when operating or inspecting the Equipment or carrying out Works of a minor nature ancillary to such inspection, the Grantee shall provide the Grantor and/or the occupier for the time being of the Land at least five (5) Working Days' notice prior to exercising the Rights.
- For the avoidance of doubt, the Grantor acknowledges that, in substitution for the notice specified from time to time in the Land Code (if any), it agrees to the Grantee's operating, inspecting or carrying out Works of a minor nature ancillary to such inspection without the provision of notice. The Grantor further acknowledges that it agrees to the five (5) Working Day notice period above in substitution for the ten (10) Working Day notice period (or such other period as may be specified from time to time) specified in the Land Code (if any).
- (j) **"Substation"** means the distribution substation and/or switching equipment (if any) installed from time to time on the Easement Land.
- (k) **"Working Day"** means any day of the week other than:
- (i) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Waitangi Day and the Provincial Anniversary Day as observed at the place where the Land is situated; and
- (ii) A day in the period commencing with 25 December in any year and ending with 2 January in the following year.
- A Working Day shall be deemed to commence at 8.00 am and to terminate at 8.00 pm.
- (l) **"Works"** means constructing, laying, equipping, maintaining, inspecting, repairing, altering, renewing, replacing (with or without something substantially similar), upgrading, adding to, removing and operating the Equipment or any other works including but not limited to excavating trenches in which the Equipment will be placed, required to be undertaken by the Grantee in order that it may use the Easement Land for the Permitted Uses.

Annexure Schedule

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Easement

Page 2 of 4 pages

(Continue in additional Annexure Schedule, if required.)

- (m) Headings are included for convenience only and do not affect the interpretation of this instrument.
- (n) Words importing the singular shall include the plural, the masculine gender shall include the feminine and persons shall include companies and vice versa.
- (o) Reference to the Grantee and Grantor is deemed to be a reference also to the Grantee's and Grantor's employees, workmen, engineers and agents unless repugnant to the context and, in the case of the Grantee, to any person nominated by the Grantee in accordance with clause 8.
- (p) Reference to legislation includes reference to all legislation amending or replacing that legislation or to any legislation passed pursuant to that legislation.
- (q) References to the parties includes reference to the parties, executors, administrators, successors in title and assigns.

2. GRANT

- 2.1 The Grantor grants and the Grantee accepts the grant of this easement in gross to use the Easement Land for the Permitted Uses together with the right to exercise the Rights for all time on the basis that no power is implied for the Grantor to determine this easement in gross for any breach of its provisions (expressed or implied) or for any other cause, the intention being that this easement in gross shall subsist until surrendered.

3. GRANTEE'S OBLIGATIONS

3.1 The Grantee shall:

- (a) in undertaking any Works cause as little damage as possible to the Land and as little inconvenience as possible to the Grantor; and
- (b) Following its undertaking any Works, in a good and workmanlike manner fill in any opening in the surface of the Land as soon as possible after the Works have been completed and restore the surface of the Land as nearly as possible to its former condition (unless otherwise agreed).

4. GRANTOR'S OBLIGATIONS

4.1 The Grantor shall not:

- (a) Place or allow to be placed any buildings, fences or other erections on the Easement Land; or
- (b) Allow any tree or shrub to grow on the Easement Land; or
- (c) Permit to be done any act on the Land that interferes with or affects the Permitted Uses or the exercise by the Grantee of the Rights. In particular and without limiting the generality of this clause 4.1(c), the Grantor shall, at its cost, at all times keep the access route over the Land to the Easement Land clear and in good condition including the prompt undertaking of any necessary reinstatement works; or
- (d) Interfere with or allow any interference with the Equipment or cause or allow any damage to be done to the Equipment; or
- (e) Grant any rights over the Easement land to any party other than the Grantee except the easements referred to in the Memorandum and/or Schedule of Easements submitted to Land Information New Zealand with the Plan.

- 4.2 Should the Grantor fail to observe or breach any of its obligations contained in this clause 4 the Grantee may remedy any such failure to observe or breach and the Grantor shall reimburse the Grantee for the cost of any such remedy.

5. MAINTENANCE

- 5.1 The Grantee shall at its cost keep the Equipment in good and substantial repair although the Grantor acknowledges that the Grantee shall not be liable for any loss, cost or damage caused to or suffered by the Grantor as a result of any failure to repair the Equipment except to the extent of any compensation which would be payable under the Grantee's then standard terms and conditions of electricity supply as published and publicly notified on the Grantee's website from time to time.

6. OWNERSHIP

- 6.1 The Grantee retains ownership of the Equipment which does not form part of the Land.

Annexure Schedule

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Easement

Page 3 of 4 pages

(Continue in additional Annexure Schedule, if required.)

7.	IMPLIED RIGHTS AND POWERS
7.1	The rights and powers implied in certain easements pursuant to Section 90D of the Land Transfer Act 1952 (and currently set out in Schedule 4 of the Land Transfer Regulations 2002) are, as between the Grantor and Grantee, substituted and replaced by the terms set out in this instrument.
8.	NOMINATION OF GRANTEE
8.1	The Grantee may, by serving written notice to that effect on the Grantor (and without prejudice to the rights of the Grantee pursuant to Section 291 Property Law Act 2007) nominate any person to exercise (either together with the Grantee or otherwise) any of the rights granted to the Grantee hereunder and may require the Grantor to grant to such person an easement substantially in the form of this instrument in respect of such rights.
9.	GRANTOR TO NOTIFY OCCUPIER
9.1	The Grantor shall notify every occupier of the Land of the terms of this instrument and shall procure that any such occupier shall comply with the terms of this instrument as necessary for the Grantee to have the full use and benefit thereof
10.	DISPUTES
10.1	If any dispute arises between the Grantor and the Grantee concerning the rights created by this instrument and the parties are unable to resolve that dispute through good faith negotiations. <ul style="list-style-type: none"> (a) To the extent that the dispute falls within the categories of dispute dealt with pursuant to the Land Code, the parties shall comply with the provisions of the Land Code; and (b) To the extent that the dispute does not come within the provisions of clause 10(a) and if the dispute is not resolved within one (1) month of the date on which the parties begin their negotiations: <ul style="list-style-type: none"> (i) The dispute shall be referred to a senior manager or executive of each of the Grantor and the Grantee who shall enter into negotiations in good faith to resolve the dispute; or (ii) If the parties agree (including as to the terms of reference), the matter may be referred to mediation.
11.	ACCOMMODATION OWNED BY GRANTOR
(a)	Where this instrument states that there exists Accommodation owned by the Grantor, the following provisions of this clause 11 shall apply but such provisions shall not otherwise be binding on the parties.
(b)	The Grantor shall not enter that part of the Easement Land on which the Accommodation is situated except for the purposes of carrying out inspection of and maintenance on the Accommodation pursuant to clause 11(c) and in accordance with clause 11(d).
(c)	The Grantor shall at its cost keep the Accommodation in good and substantial repair. The Grantor may enter and inspect the Accommodation from time to time in accordance with clause 11(d) to determine the condition of the Accommodation and to carry out necessary repairs in terms of this clause 11(c). Without prejudice to the foregoing, the Grantor shall at all times ensure that: <ul style="list-style-type: none"> (i) The ventilation both within and from the Accommodation is no way restricted; and (ii) The fire resistance rating and fire protection measures of the Accommodation at the date of this instrument are maintained.
(d)	The Grantor acknowledges that the Accommodation containing the Equipment is locked at all times by the Grantee. If the Grantor reasonably suspects that the Accommodation requires repair, upon receiving notification from the Grantor the Grantee agrees to, on reasonable notice (except in an Emergency Situation), accompany the Grantor to enter the Accommodation for the purpose of inspecting the Accommodation or carrying out repair, provided that the Grantor shall have the right to inspect the Accommodation without charge by the Grantee no more than twice a year (other than in an Emergency Situation).
(e)	If the Grantee becomes actually aware of any want of repair or maintenance in respect of the Accommodation, the Grantee shall notify the Grantor in writing of any such want of repair or maintenance provided always that the Grantee is not required to carry out inspections of the Accommodation when it enters the Accommodation or otherwise, and the Grantee shall not be imputed with constructive awareness of any want of maintenance or repair.
(f)	Should the Grantor fail to observe its obligations contained in clause 11(c) the Grantee may remedy any such failure to observe and the Grantor shall reimburse the Grantee (on demand) for the cost of any such remedy.

Annexure Schedule

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

Easement

Page 4 of 4 pages

(Continue in additional Annexure Schedule, if required.)

12. ACCOMMODATION OWNED BY GRANTEE

- (a) Where this instrument states that there exists Accommodation owned by the Grantee the following provisions of this clause 12 shall apply.
- (b) The Grantor shall not enter that part of the Easement Land on which the Accommodation is situated.
- (c) The Grantee shall at its cost keep the Accommodation in good and substantial repair although it shall not be liable for any loss, cost or damage caused to or suffered by the Grantor as a result of any failure to repair the Accommodation.
- (d) The Grantee retains ownership of the Accommodation which does not form part of the Land.

13. BUILDING

13.1 Where this instrument states that there exists a Building on the Land at the date of this instrument the following provisions of this clause 13 shall apply:

13.2 For the purposes of this clause 13:

- (a) "Building" means the building or other improvements situated on the Land.
- (b) The definition of "Rights" in clause 1(i) shall be varied by inserting the words "and to go into and have access to and through the Building" after the words "over and under the Land".

13.3 In addition to the obligations contained in clause 3:

- (a) The Grantee shall, in undertaking any Works, cause as little damage as possible to the Building and as little inconvenience as possible to the Grantor and/or the Grantor's tenants, licensees and other persons who have the right to use the Building; and
- (b) Following undertaking of the Works, shall make good any damage to the Building caused through the undertaking of the Works.

13.4 The Grantor and the Grantee acknowledge that the provisions of clause 4.1 shall apply including (without limitation) that the Grantor shall not place or allow to be placed any buildings, fences or other erections on the Easement Land (with the exception of the Building existing at the date of this instrument).

14. PRESENCE OF ACCOMMODATION

- (a) There is no Accommodation.

15. PRESENCE OF BUILDING

- (a) At the date of this instrument there is no Building on the Land.