

View Instrument Details



Instrument No 13017721.2
Status Registered
Date & Time Lodged 13 June 2024 09:55
Lodged By Elliott, Tita Louise Harnett
Instrument Type Easement Instrument



Affected Records of Title	Land District
1182845	Canterbury
1182846	Canterbury

Annexure Schedule Contains 4 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 ☒

Signature

Signed by Tita Louise Harnett Elliott as Grantor Representative on 24/05/2024 02:17 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 Tita Louise Harnett Elliott as Grantee Representative on 24/05/2024 02:17 PM

*** End of Report ***

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Form 22

Easement instrument to grant easement or *profit à prendre*

(Section 109 Land Transfer Act 2017)

Grantor

FLETCHER RESIDENTIAL LIMITED

Grantee

FLETCHER RESIDENTIAL LIMITED

Grant of Easement or *Profit à prendre*

The Grantor being the registered owner of the burdened land 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, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A

Continue in additional Annexure Schedule, if required

Purpose of Easement, or <i>profit</i>	Shown On Deposited Plan 603929	Burdened Land As shown on Deposited Plan 603929	Benefited Land As shown on Deposited Plan 603929
Right of way, rights to drain water & sewage and rights to convey water, electricity & telecommunications	A	Lot 1 (RT 1182845)	Lot 2 (RT 1182846)
	B	Lot 2 (RT 1182846)	Lot 1 (RT 1182845)
Party Wall	C	Lot 1 (RT 1182845)	Lot 2 (RT 1182846)
	D	Lot 2 (RT 1182846)	Lot 1 (RT 1182845)

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

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Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2018 and/or Schedule 5 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 209 of the Land Transfer Act 2017]~~

[the provisions set out in Annexure Schedule 1]

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ANNEXURE SCHEDULE 1

1 DEFINITIONS:

1.1 In this Instrument, unless the context requires otherwise:

Instrument means the provisions set out in this easement instrument.

Party Wall means a party wall erected on any Party Wall Area and includes:

- (a) Any extension, modification, repair, restoration or addition to any party wall including below the surface of the Burdened Land and Benefited Land;
- (b) Any new party wall erected in substitution for a demolished party wall;
- (c) All foundations and structure supporting a party wall; and
- (d) Any part of a party wall.

Party Wall Area means that part of the land described in Schedule A as being subject to a Party Wall Easement.

Party Wall Easement means the rights recorded in this Annexure Schedule 1 in relation to each Party Wall Area.

2 GENERAL PROVISIONS RELATING TO EASEMENTS

2.1 Where there is a conflict between the provisions of the Fifth Schedule to the Land Transfer Regulations 2018 and Schedule Five of the Property Law Act 2007 the provisions of the Land Transfer Regulations 2018 shall prevail.

2.2 No power is implied in this Instrument for the Grantor to determine any of the Grantee's rights for breach of any provision in this Instrument (whether express or implied) or for any other cause, if being the intention of the parties that the easements shall subsist for all time unless surrendered.

3 PARTY WALL

The following provisions shall apply to each Party Wall Easement:

3.1 The Grantor grants to the Grantee and the Grantee grants to the Grantor, in common with the Grantor's and Grantee's tenants, agents, workman, licensees and invitees, the right for each other to:

- (a) Erect a Party Wall on the Party Wall Area;
- (b) Modify any Party Wall within the limits of the Party Wall Area;
- (c) Use, encroach on and enjoy for the purpose of a Party Wall the Party Wall Area;
- (d) Use and enjoy the support and enclosure of the structure on the Burdened Land afforded by the Party Wall and the land on which it stands;
- (e) Use and enjoy the foundations and construction of the Party Wall any extension of the Party Wall below the surface of the Party Wall Area; and
- (f) Enter on to each other's land at any time on giving reasonable notice by any route that is reasonable in the circumstances with any tools, equipment, machinery and vehicles that are necessary and to remain there for any reasonable time for the purposes of carrying out any necessary repair or restoration work to the Party Wall, provided that in exercising this right of entry and in carrying out any work, all persons must comply with the provisions set out in this clause.

3.2 The Grantor's and Grantee's rights of access in clause 3.1 (f) may be exercised on giving reasonable notice to the other party except in an emergency. Such consent to access shall not be unreasonably withheld or delayed.

3.3 When obtaining access for the purposes of clause 3.1 (f) the party obtaining access must:

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- (a) Cause as little disturbance as possible of the other party's use and enjoyment of its land; and
 - (b) Repair any damage caused by the party obtaining access to the other party's land so as to restore it as nearly as possible to its former condition.
- 3.4 Any party carrying out any work on the Party Wall under clause 3.1 (f) must:
- (a) Carry out all work in a proper and tradesperson like manner and in accordance with the requirements of law and the local authority having jurisdiction;
 - (b) Carry out and complete the work with reasonable speed;
 - (c) Ensure that the Party Wall, any building supported by the Party Wall, and any land affected will not be rendered unstable or unsafe or jeopardised in any manner both during and on completion of the construction;
 - (d) Take all reasonable steps to minimise inconvenience to the occupiers and users of the land and premises of the other party as a result of the work; and
 - (e) Repair all damage caused to the land and premises of the other party.
- 3.5 The Grantor and the Grantee will share the costs of the repair and restoration of the Party Wall equally, unless any repair or restoration of the Party Wall has become necessary by the act, neglect or default of one party alone (including any tenant, licensee, employee, invitee or agent of that party), in which case that party will bear the entire cost of that repair.

4 DEFAULT

If a party fails (**Defaulting Party**) to perform or join with the other party (**Other Party**) in performing any obligation under this Instrument, the following provisions will apply:

- 4.1 the Other Party may serve a written notice on the Defaulting Party (**Default Notice**) specifying the default and requiring the Defaulting Party to perform or to join in performing the obligation and stating that, after the expiry of one month from service of the Default Notice, the other party may perform the obligation;
- 4.2 if after the expiry of one month from service of the Default Notice, the Defaulting Party has not performed or joined in performing the obligation, the Other Party may:
 - (a) perform the obligation; and
 - (b) for that purpose enter on to the defaulting party's land;
- 4.3 the Defaulting Party must pay to the Other Party the costs of:
 - (a) the Default Notice; and
 - (b) the Other Party in performing the obligation of the Defaulting Party;
 - (i) within one month of receiving written notice of the Other Party's costs; and
 - (ii) the Other Party may recover any money payable under clause 4.3 from the Defaulting Party as a liquidated debt.

5 DISPUTES

- 5.1 If any dispute arises between the Grantor and the Grantee concerning these easement rights, the parties must enter into negotiations in good faith to resolve their dispute. If the dispute is not resolved within one month of the date on which the parties begin their negotiations, the parties must submit to the arbitration of an independent arbitrator appointed jointly by the parties. If the parties cannot agree on an independent arbitrator within 14 days, the parties will submit to the arbitration of an independent arbitrator appointed by the President for the time being of the Canterbury / Westland branch of the New Zealand Law Society. That arbitration will be determined under the Arbitration Act 1996 and its amendments or any enactment passed in substitution.