# View Instrument Details

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| **Instrument No** | 8138731.6 |
| **Status** | Registered |
| **Date & Time Lodged** | 20 October 2009 09:12 |
| **Lodged By** | Shepherd, Andrea Jane |
| **Instrument Type** | Easement Instrument |

| Affected Computer Registers | Land District |
|---|---|
| 414229 | North Auckland |
| 414230 | North Auckland |
| 414231 | North Auckland |
| 414232 | North Auckland |
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| 414268 | North Auckland |
| 414269 | North Auckland |

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| Affected Computer Registers | Land District |
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| 414270 | North Auckland |
| 414271 | North Auckland |
| 414272 | North Auckland |
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| 414277 | North Auckland |
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| 414286 | North Auckland |
| 414287 | North Auckland |

**Annexure Schedule:** Contains 7 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 Matthew Joseph Carroll as Grantor Representative on 19/10/2009 09:00 AM

**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 Matthew Joseph Carroll as Grantee Representative on 19/10/2009 09:01 AM

***** 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**

Duck Nominees Limited

**Grantee**

Northpower 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 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; *profit* or covenant | Shown (plan reference) | Servient Tenement (Computer Register) | Dominant Tenement (Computer Register) or in gross |
|---|---|---|---|
| See Annexure Schedule 1 | | | |

**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 substituted by the provisions set out in Annexure Schedule 2.

**Covenant provisions**

*Delete phrases in [ ] and insert Memorandum number as required; continue in additional Annexure Schedule, if required*

The provisions applying to the specified covenants are those set out in:

N/A

**Form B** *continued*

**Annexure Schedule** Page **1** of **5** Pages

*Insert instrument type*

Easement instrument

*Continue in Additional Annexure Schedule(s), if required*

**Annexure Schedule 1**

**"Schedule A" continued**

| **Purpose (nature and extent) of easement** | **Shown (plan reference)** | **Servient tenement (Identifier/CT)** | **Dominant tenement (Identifier/CT *or* in gross)** |
|---|---|---|---|
| Right to convey electricity | CA on DP 404128 | Lot 1 on DP 404128 (CT 414229) | In Gross |
| | J on DP 404128 | Lot 10 on DP 404128 (CT 414235) | In Gross |
| | O on DP 404128 | Lot 13 on DP 404128 (CT 414237) | In Gross |
| | Q and M on DP 404128 | Lot 15 on DP 404128 (CT 414238) | In Gross |
| | V on DP 404128 | Lot 17 on DP 404128 (CT 414240) | In Gross |
| | Z and AB on DP 404128 | Lot 19 on DP 404128 (CT 414241) | In Gross |
| | CD on DP 404128 | Lot 29 on DP 404128 (CT 414253) | In Gross |
| | BN on DP 404128 | Lot 200 on DP 404128 (CT 414229-414287 (inclusive)) | In Gross |
| | BP on DP 404128 | Lot 202 on DP 404128 (CT 414229-414287 (inclusive)) | In Gross |

**Annexure Schedule 2**

1. **DEFINITIONS**

1.1 In this instrument unless the context indicates otherwise:

"Easement Area" means the areas referred to in Schedule A;

"Land" is the land owned by the Grantor described in Schedule A;

"Land Code" means the 'Code of Practice for Land Owners, Land Occupiers, Electricity Lines Companies and Gas Lines Companies' published under the Electricity and Gas Complaints Commissioner Scheme effective 1/10/06;

"Land Owner", "Land Occupier", "Emergency Situation" and "Lines Equipment" have the meanings given to those terms in the Land Code;

**Form B** *continued*

**Annexure Schedule** Page **2** of **5** Pages

*Insert instrument type*

Easement instrument

"Electrical Works" means the Works, Electrical Installations, Electrical Appliances, Fittings and Associated Equipment, as those terms are defined in the Electricity Act 1992, presently fixed or installed on, over or under the Easement Area, or to be fixed or installed on, over or under the Easement Area in substitution, addition or replacement for them, whether of the same smaller or larger dimensions or capacity;

"Telecommunications" means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not (and for the avoidance of doubt, includes any conveyance that constitutes broadcasting);

"Telecommunications Works" means any wire or a conductor of any other kind (including a fibre optic cable) used or intended to be used for the transmission or reception of Telecommunications and any instrument, furniture, plant, office, building, machinery, engine, excavation, or work, of whatever description, used in relation to, or in any way connected with that wire or conductor presently fixed or installed on, over or under the Easement Area, or to be fixed or installed on, over or under the Easement Area in substitution, addition or replacement for them, whether of the same smaller or larger dimensions or capacity.

2. **GRANT OF ELECTRICITY AND TELECOMMUNICATION EASEMENT**

2.1 The Grantor grants to the Grantee, as an easement in gross forever,

2.1.2 the right to convey, reticulate, convert, transform, transmit and use electrical energy and power by means of the Electrical Works; and

2.1.3 the right to convey, reticulate, convert, transform, transmit and use Telecommunications and computer media, by means of the Telecommunications Works,

in each case without obstruction or interruption and in any quantity.

2.2 The Grantee and its engineers, employees, contractors, workmen and anyone else authorised by the Grantee has the right, subject to section 3, to enter and remain for a reasonable time on the Easement Area, and any other parts of the Land as are reasonably necessary, to do the following work:

2.2.1 to construct, install and lay the Electrical Works and/or Telecommunications Works on, over or under the Easement Area, at a depth or height and along a line determined by the Grantee;

2.2.2 to inspect, maintain, repair, dig up, alter, enlarge, renew or replace those Electrical Works and/or Telecommunications Works; and

2.2.3 to do anything else in the full exercise of the Grantee's rights, with the Grantee's agents, contractors and employees, and with or without tools, plant, equipment and vehicles.

2.3 The Grantee has no obligation to construct the Electrical Works and/or the Telecommunications Works or to convey electrical energy and power or Telecommunications through them continuously or at all.

**Form B** *continued*

**Annexure Schedule** Page **3** of **5** Pages

*Insert instrument type*

Easement instrument

3. **ACCESS**

3.1 The Grantee must before exercising the right of entry in clause 2.2:

3.1.1 Make reasonable efforts to identify the Land Owner or the Land Occupier;

3.1.2 Give reasonable notice to the Land Owner or the Land Occupier, except in an Emergency Situation, when prior notice is not required;

3.1.3 Identify the work it intends to carry out;

The Grantee is not required by reason of the obligations in this clause to delay entry onto the Land from the date notified.

3.2 The Grantee, in entering the Land, will take reasonable steps to minimise inconvenience to the Land Owner or the Land Occupier, including:

3.2.1 The time of entry (unless this is not possible due to an Emergency Situation);

3.2.2 Leaving gates as they are found;

3.2.3 Driving in a safe manner and taking reasonable steps not to disturb stock; and

3.2.4 Avoiding access through specific areas unless necessary to access the Lines Equipment

but the Grantee is not required to delay entry onto the Land or to pay any money or other consideration by reason of the obligations in this clause.

3.3 When obtaining access to the Easement Area, the Grantee will:

3.3.1 complete the Electrical Works and Telecommunications Works as soon as possible with as little damage as possible to the Land and any vegetation, fences or improvements on it; and

3.3.2 repair and make good all damage caused by the Grantee or any person carrying out the work on behalf of the Grantee.

4. **OWNERSHIP**

The Electrical Works and Telecommunications Works will at all times remain vested in the Grantee and no person, company, or other party has an interest in the Electrical Works and Telecommunications Works by reason only of having an interest in the Land.

5. **GRANTOR'S OBLIGATIONS**

5.1 The Grantor will not, without the prior written permission of the Grantee (which will not be unreasonably withheld):

5.1.1 On the Easement Area, or within the minimum distance from the Electrical

**Form B** *continued*

**Annexure Schedule** Page **4** of **5** Pages

*Insert instrument type*

Easement instrument

Works and Telecommunications Works as advised by the Grantee (having regard to the relevant codes of practice and statutory or regulatory requirements applicable from time to time), construct or permit the construction of any walls, or carry out any earthworks or stockpiling, or place any buildings or structures, or allow any vegetation to become established or remove or permit the removal of any soil, substance or material;

5.1.2 Construct or permit the construction of any roads or driveways on the Easement Area, provided that this clause 5.1.2 does not apply to the Easement Areas on Lots 200 and 202 on DP 404128;

5.1.3 Do or allow anything to be done which would interrupt or restrict the transmission of electrical energy, Telecommunications, data or computer media or interfere with or affect the other rights of the Grantee under this easement;

5.1.4 Impede the Grantee's access over the Land or the Easement Area to the Electrical Works and Telecommunications Works.

5.2 The Grantor may put up fencing or gates on any part of the Easement Area as long as:

5.2.1 the Grantor first notifies the Grantee of this intention;

5.2.2 before putting up the gates or fences, the Grantee has marked the location of the Electrical Works and Telecommunications Works; and

5.2.3 if in the reasonable opinion of the Grantee, the design or location of any proposed fence or gate may interfere with the operation of the Electrical Works and/or the Telecommunications Works, the Grantee may prescribe the height, material used and/or location of the fence or gate.

5.3 The Grantor must not knowingly cause or permit flooding of the Easement Area.

6. **MAINTENANCE**

The Grantee is responsible for maintaining the Electrical Works and Telecommunications Works in the Easement Area so that they do not become a nuisance or a danger.

7. **NO POWER TO TERMINATE**

There is no implied power in this instrument for the Grantor to terminate the easement rights due to the Grantee breaching any term of this instrument or for any other reason, it being the intention of the parties that the easement rights will continue forever unless surrendered.

8. **STATUTORY PROVISIONS AND LAND CODE**

8.1 The easement rights are in substitution for those set out in Schedule 4 to the Land Transfer Regulations 2002, but otherwise this easement does not affect any statutory powers which the Grantee may have.

**Form B** *continued*

**Annexure Schedule** Page **5** of **5** Pages

*Insert instrument type*

Easement instrument

8.2 Clauses CB6.5, CB6.6, CB6.7, CB6.8, CB6.10 and CB7 of the Land Code differ from clauses 3.1, 3.2, 3.3 and 9 of this easement. The easement provisions take precedence over these clauses of the Land Code and they do not apply to this easement.

9. **DISPUTES**

If any dispute arises between the Grantor and Grantee about the rights in this instrument which cannot be resolved by negotiation, the parties must submit at the request of either party to the arbitration of an independent arbitrator. This arbitrator is to be appointed jointly by the parties, and if they cannot agree on one within 14 days, to be appointed by the President for the time being of the District Law Society where the Land is situated. The arbitration will be determined in accordance with the Arbitration Act 1996 and its amendments or any statute which replaces it. The parties' execution of this instrument is to be treated as a submission to arbitration.