View Instrument Details

Instrument No	12999897.5
Status	Registered
Lodged By	Sundvick, Stephen Neil
Date & Time Lodged	22 Jan 2025 15:54
Instrument Type	Easement Instrument

Affected Records of Title	**Land District**
1176168	North Auckland
1176169	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 ☑

Signature

Signed by Stephen Neil Sundvick as Grantor Representative on 22/01/2025 03:52 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 Stephen Neil Sundvick as Grantee Representative on 22/01/2025 03:53 PM

***** End of Report *****

© Copyright: Land Information New Zealand

Easement instrument to grant easement or *profit à prendre*

(Sections 109 Land Transfer Act 2017)

Grantor

PETER ASHLEY SINCLAIR LINNELL

Grantees

NORTHPOWER LIMITED AND NORTHPOWER FIBRE 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 Grantees** (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 Easement or *profit*	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Right to convey electricity and telecommunications	"A" on DP 608174	Lot 1 DP 602337 (RT 1176168)	In Gross
	"B" on DP 608174	Lot 2 DP 602337 (RT 1176169)	
	"C" on DP 608174	Lot 1 DP 602337 (RT 1176168)	
	"D" on DP 608174	Lot 2 DP 602337 (RT 1176169)	

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 2018 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby **substituted** by: the provisions set out in the Annexure Schedule

EASEMENT INSTRUMENT ANNEXURE SCHEDULE

1. DEFINITIONS

1.1 In this instrument unless the context indicates otherwise:

"**Easement Area**" means those parts of the Land referred to in Schedule A as being subject to a right to convey electricity and a right to convey Telecommunications;

"**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;

"**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;

"**Grantees**" means Northpower Limited, Northpower Fibre Limited and their successors, transferees and assigns;

"**Grantees' Authorised Persons**" means the Grantees' subsidiary and related companies, and the agents, employees, contractors, lessees, licensees, representatives and invitees of the Grantees and the Grantees' subsidiary and related companies;

"**Grantor**" means the registered owner of the Land and includes their heirs, executors, administrators and assigns;

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

"**Burdened Land**" means the Burdened Land as set out in Schedule A;

"**Telecommunications**" means the conveyance, transmission, emission or reception 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 cables, ducts, wires or conductors of any other kind (including, without limit, fibre optic cables) 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 those cables, ducts, wires or conductors 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;

"**Works Owner(s)**" means the Grantees, the Grantees' subsidiary and related companies, or any other person(s) the Grantees authorise to install Electrical Works or Telecommunications Works, and includes such person(s) as they may transfer ownership to.

2. GRANT OF ELECTRICITY AND TELECOMMUNICATIONS EASEMENTS

2.1 The Grantor grants to the Grantees, as easements in gross forever, the rights to:

2.1.1 convey, reticulate, convert, transform, transmit, supply and use electrical energy and power by means of the Electrical Works; and

2.1.2 convey, reticulate, convert, transform, transmit, supply and use Telecommunications, by means of the Telecommunications Works,

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

2.2 The Grantees and the Grantees' Authorised Persons have the right, subject to clause 3, to enter and remain on the Easement Area, and any other parts of the Land as are reasonably necessary, with or without tools, plant, equipment and vehicles 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 Grantees;

2.2.2 To inspect, maintain, repair, dig up, alter, upgrade, enlarge, renew, relocate, replace or remove those Electrical Works and/or Telecommunications Works; and

2.2.3 To open up the soil of the Easement Area and make any access way, cuttings, fillings, grades, batters or trenches and to re-open the same and generally to do and perform such acts or things upon the Land and/or Easement Area as may be necessary or desirable (or incidental thereto) and to do anything else in the full exercise of the rights granted under this instrument.

2.2.4 For the avoidance of doubt, the Grantor's consent shall be deemed for the purposes of clause 10(1)(b) of Schedule 5 of the Land Transfer Regulations 2018 by virtue of this easement).

2.3 The right of entry granted pursuant to clause 2.2 will extend to any land which is adjacent to the Land which is owned by the Grantor, or over which the Grantor's invitees have a right of access, if reasonably required by the Grantee to access the Land and/or the Easement Area.

3. ACCESS

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

3.1.1 Make reasonable efforts to identify the Grantor or the Land occupier;

3.1.2 Give reasonable notice to the Grantor or the Land occupier of the Grantees' intention to enter the Land, except in an Emergency Situation when prior notice is not required and for the avoidance of doubt, clause 12(2) of Schedule 5 the Land Transfer Regulations 2018 does not apply;

3.1.3 Identify the work they intend to carry out.

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

3.2 The Grantees, in entering the Land, will take reasonable steps to minimise inconvenience to the Grantor or the Land occupier, including:

3.2.1 Liaising with the Grantor to arrange a suitable time of entry to the Easement Area (unless this is not possible due to an Emergency Situation);

3.2.2 Leaving gates as they are found (if applicable);

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 identified by the Grantor unless necessary to access the Electrical Works and Telecommunications Works.

The Grantees are not required to delay entry onto the Land or to pay any money or other consideration to the Grantor or any occupier of the Land by reason of the obligations in this clause.

3.3 When accessing the Easement Area, the Grantees 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 Use all reasonable endeavours to repair and make good all damage caused to the Land by the Grantees or the Grantees' Authorised Persons as a result of carrying out the Electrical Works and Telecommunications Works.

4. OWNERSHIP

Ownership of the Electrical Works and Telecommunications Works will at all times be vested in the Works Owner(s) and no part of the Electrical Works or Telecommunications Works will become a fixture on the Burdened Land or in any building on the Burdened Land. 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 Grantees (which will not be unreasonably withheld):

5.1.1 On the Easement Area or within the minimum distance from the Electrical Works and Telecommunications Works as advised by the Grantee from time to time (having regard to the relevant codes of practice and statutory or regulatory requirements applicable from time to time) do or allow the following:

(a) construction of any fencing or walls;

(b) placement of any buildings, structures or services;

(c) carrying out any earthworks or stockpiling;

(d) removal of any soil, substance or material;

(e) establishment of any trees, or other vegetation that can cause interference or restrict access;

5.1.2 Construct or permit the construction of any roads or driveways on the Easement Area except where the easement is over an access or right of way already in existence or created at the time of registration of this easement;

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

5.1.4 Impede the Grantees' 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 Grantees of this intention;

5.2.2 Before the Grantor erects the gates or fences, the Grantees have marked the location of the Electrical Works and Telecommunications Works; and

5.2.3 If in the reasonable opinion of the Grantees, 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 (or omit to do any act or thing that causes) flooding of the Easement Area.

5.4 In the event of any breach by the Grantor of its covenants under clauses 5.1, 5.2 or 5.3, the Grantees may give the Grantor written notice of any failure to comply with the requirements and specify what is required to remedy such failure and a timeframe for doing so. If the Grantor fails to remedy such failure within the time frame specified in the notice, the Grantees may at all times at the Grantor's reasonable cost and at the Grantor's risk, remove any natural or cultivated vegetation or improvement which will interfere with the rights granted by this instrument or otherwise take such steps as are reasonably required to remedy such failure.

6. HEALTH AND SAFETY

6.1 The Grantees acknowledge that they have responsibilities as a 'person conducting a business or undertaking' under the Health and Safety at Work Act 2015 (*HSAWA*), including under any applicable regulations and approved codes of practice relevant to the HSAWA.

6.2 When exercising its rights under this easement, the Grantees shall at all times comply with their health and safety obligations under the HSAWA and at law generally.

6.3 If the Grantor is also a 'person conducting a business or undertaking' because it conducts a business or undertaking on the Land, the Grantor acknowledges that it also has responsibilities under the HSAWA.

6.4 The parties agree that:

6.4.1 the Grantor will inform the Grantees or the Grantees' Authorised Persons of the Grantor's reasonable rules or procedures regarding health and safety of persons on the Land prior to their entry;

6.4.2 the Grantor shall comply with the Grantees' health and safety policies and procedures in relation to the Easement Area, the Electricity Works and Telecommunications Works; and

6.4.3 the Grantor and Grantees shall comply with and use all reasonable endeavours to ensure their visitors comply with all health and safety signs, notices, policies and instructions issued or displayed on or at the Land.

7. MAINTENANCE

The Grantees are responsible for maintaining the Electrical Works and Telecommunications Works in the Easement Area so that they do not become a nuisance or a danger, provided that notwithstanding any other provision of this easement, if any maintenance, repair or replacement of the Electrical Works and/or Telecommunications Works, is necessary because of any act or omission, neglect or fault of the Grantor (including any tenant, licensee, employee, invitee, contractor or agent of the Grantor), then the Grantor shall be responsible for the whole cost of any such maintenance, repair or replacement.

8. NO POWER TO TERMINATE

There is no implied power in this instrument for the Grantor to terminate the easement rights due to the Grantees 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.

9. LICENCE AND ASSIGNMENT

9.1 The Grantees may assign, transfer, lease, licence or otherwise grant or permit the use of all or any part of their rights, obligations and interests under this instrument without needing to obtain the Grantor's consent. The Grantor will if requested to do so by the Grantees sign such documents and obtain such consents as are required to enable registration of a transfer or assignment of part or all of a Grantee's interest under this instrument against the Record of Title(s) for the Land. The Grantees must reimburse the Grantor for the reasonable legal fees incurred by the Grantor when complying with the Grantor's obligations under this clause.

9.2 The liability of a Grantee under this instrument is limited to obligations and liabilities arising while that Grantee is the registered owner of the benefit of this easement, and ceases (except for any obligation or liability which has arisen during their time as registered Grantee) upon registration of any transfer or assignment of their interest as Grantee.

9.3 If at any time there is more than one Grantee, their liability to the Grantor shall be joint and several.

10. STATUTORY PROVISIONS

The easement rights are in substitution for those set out in Schedule 5 to the Land Transfer Regulations 2018 and/or Schedule 5 to the Property Law Act 2007, but otherwise this easement does not affect any statutory powers which the Grantees may have. The terms contained in this instrument shall be subject to and do not derogate from the rights and powers of the Grantee under any contract for the supply of electricity or the Electricity Act 1992.

11. DISPUTES

If any dispute arises between the Grantor and Grantees 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 branch of the New Zealand 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.