

Easement instrument to grant easement

Sections 90A and 90F, Land Transfer Act 1952

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DocID: 81181885

Land Registration District

North Auckland

Grantor

Surname must be underlined.

STANLEY KENNETH CALCOTT, JAN CHRISTINA CALCOTT and RUSSELL PETER GOODMAN jointly inter se and STANLEY KENNETH CALCOTT, JAN CHRISTINA CALCOTT and RUSSELL PETER GOODMAN jointly inter se as tenants in common in equal shares

Grantee

Surname must be underlined.

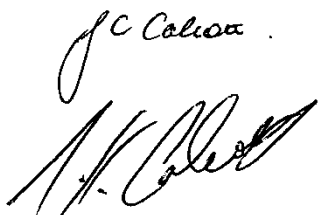

HENDRICK JAN EGGINK

Grant of easement

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) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Dated this 22 day of December 2003

Attestation

	<p>Signed in my presence by the Grantor (Stanley Kenneth Calcott Jan Christina Calcott)</p>
	<p>          Signature of Witness</p> <p>Witness to complete in BLOCK letters (unless legibly printed)</p> <p>Witness Name LEONIE RUTH MOXON</p> <p>Occupation NANNY</p> <p>Address 23 SCARLET OAK DRIVE, ALBANY, AUCKLAND</p>
<p>Signature (common seal) of Grantor</p>	

Signed in my presence by the Grantor (Russell Peter Goodman)

Haylee Kim Dorval  
Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

RP Goodman

Witness Name Haylee Kim Dorval

Occupation LAW CLERK TO  
WADHAM GOODMAN  
Address LAWYERS  
PALMERSTON NORTH

\_\_\_\_\_  
Signature (common seal)  
of Grantor

Signed in my presence by the Grantor (Stanley Kenneth Calcott  
Jan Christina Calcott)

LEONIE RUTH MOXON  
Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

JK Calcott  
JC Calcott

Witness Name LEONIE RUTH MOXON

Occupation NANNY

Address 23 SCARLET OAK DRIVE, ALBANY,  
AUCKLAND

\_\_\_\_\_  
Signature (common seal)  
of Grantor

Signed in my presence by the Grantor (Russell Peter Goodman)

Haylee Kim Dorval  
Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

RP Goodman

Witness Name Haylee Kim Dorval

Occupation

Address LAW CLERK TO  
WADHAM GOODMAN  
LAWYERS  
PALMERSTON NORTH

\_\_\_\_\_  
Signature (common seal)  
of Grantor

### Annexure Schedule 1

Easement instrument

Dated

20-12-03

Page 2 of

8

pages

**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 (Identifier/CT)	Dominant tenement (Identifier/CT) or in gross
PARTY WALL	B (DP162056)	LOT 1 (DP 105083) (CT NA 570/393)	LOT 1 (DP 151549) (CT NA 906/393)

**Easements or rights and powers (including terms, covenants, and conditions)**

*Delete phrases in [ ] and insert memorandum number as required.*

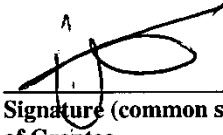
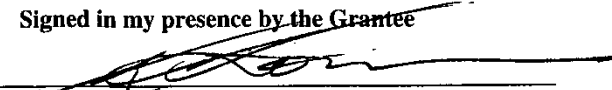
*Continue in additional Annexure Schedule if Required.*

Unless otherwise provided below, the rights and powers implied in specific classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or the Ninth Schedule of the Property Law Act 1952.

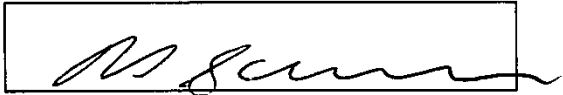
The implied rights and powers are negated by the provisions set out in Annexure Schedule 2

**All signing parties and either their witnesses or solicitors must sign or initial in this box**

*MR JCC [Signature]* *RF [Signature]*

 <hr/> Signature (common seal) of Grantee	<b>Signed in my presence by the Grantee</b> 
	<hr/> <i>Signature of Witness</i>  <i>Witness to complete in BLOCK letters (unless legibly printed)</i> Witness Name                    D. B. Thomas Occupation                      Notary Public Lawyer Address                            Thomas & Co. Waitakere City, N.Z.

**Certified correct** for the purposes of the Land Transfer Act 1952.



[Solicitor for] the Grantee

\*If the consent of any person is required for the grant, the specified consent form must be used.

1. **Interpretation**

1.1 In this instrument unless the context otherwise requires:

"**this instrument**" means this Easement Instrument (including these provisions) as may be varied from time to time.

"**these provisions**" means these rights, powers and provisions as they may be varied from time to time.

"**costs**" means the costs of the installation, creation, establishment, repair, maintenance and serving of any article, property or facility used or needed for the proper exercise of the rights created by this instrument.

"**dominant land**" in relation to any instrument means the land described in Annexure Schedule 1 to which the relevant easement is appurtenant together with any buildings thereon.

"**easement**" means an easement recorded by this instrument.

"**the Grantee**" in relation to each easement means the registered proprietor for the time being of the dominant tenement to which the relevant easement is appurtenant.

"**the Grantee and other authorised persons**" in relation to any easement means the Grantee and the agents, employees, contractors, tenants, licensees and invitees of the Grantee and all other persons authorised or invited by the Grantee to enjoy the relevant easement and, where the context so admits, means any of such persons.

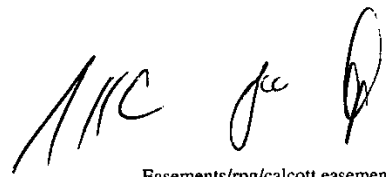

"**the Grantor**" in relation to each easement means the registered proprietor for the time being of the servient tenement which is subject to the relevant easement.

"**the Grantor and other authorised persons**" in relation to any easement means the Grantor and the agents, employees, contractors, tenants, licensees and invitees of the Grantor and all other persons authorised or invited by the Grantor to enjoy the relevant easement and, where the context so admits, means any of such persons.

"**the plan**" means the deposited plan no. 162056 (North Auckland Land Registry).

"**party wall**" means a party wall erected on any party wall area and includes:

- (a) any extension, modification or addition to any party wall;
- (b) any new party wall erected in substitution for a demolished party wall;
- (c) all foundations supporting a party wall; and
- (d) any part of a party wall.

  
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"party wall area" means that part of the land described in Schedule A of Annexure Schedule 1 as being subject to a party wall easement.

"party wall easement" means the rights recorded by this instrument in relation to each party wall area.

"servient land" in relation to any easement means the land described in Annexure Schedule 1 which is subject to the relevant easement together with any buildings thereon.

"specified area" means any part of the land specified in Schedule A of Annexure Schedule 1 as being subject to an easement.

"specified proportion" in relation to any party and any costs means the proportion of such costs payable by such party in accordance with this instrument.

## 2. Rights and Powers Relating to Easements

2.1 The following provisions are applicable to the easements created by this instrument:

2.1.1 Each grant shall be for all time from the date such easements are created by registration.

2.1.2 Except to the extent that any matters are not provided for the rights and powers set out herein are intended to be in substitution for those specified in the Fourth Schedule to the Land Transfer Regulations 2002 and the Ninth Schedule to the Property Law Act 1952.

2.1.3 Where there is a conflict between the provisions of the Fourth Schedule to the Land Transfer Regulations 2002 and the Ninth Schedule to the Property Law Act 1952 the provisions of the Ninth Schedule shall prevail.

Where there is a conflict between the provisions of the said Fourth Schedule and/or the said Ninth Schedule and the provisions in this easement instrument the provisions in this easement certificate must prevail.

2.1.4 No power is implied in respect of any easement for the Grantor to determine the easement for breach of any provision in this instrument (whether express or implied) or for any other cause, it being the intention of the parties that each easement shall subsist for all time unless it is surrendered.

## 3. Party Wall Easements

3.1 The following provisions shall apply to each party wall easement:

3.1.1 The Grantee has the right (in common with the Grantor) to

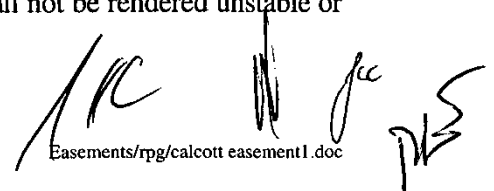
- (i) use the existing party wall erected on the party wall area;
- (ii) erect a party wall on the party wall area within the height limits as specified (if any);
- (iii) modify any party wall within the limits of the party wall area and the height limits (if any);
- (iv) use, encroach on and enjoy for the purpose of a party wall the party wall area;
- (v) use and enjoy the support and enclosure of the structure of the servient tenement afforded by the party wall and the land upon which it stands;
- (vi) use and enjoy the foundations and construction of the party wall and any extension of the party wall below the surface of the party wall area.

3.1.2 Any party may on giving to the other party not less than six (6) months' notice in writing of such intention, demolish any existing party wall (including such part of any buildings necessarily involved or required to be demolished) and build upon the party wall area a suitable substitute party wall ("**a suitable substitute party wall**"), within the height limits as specified (if any), as may reasonably be required for any building which that party is erecting or intending to erect and for the continued support of all other buildings affected.

3.1.3 If a party wall requires demolition for any reason other than pursuant to clause 3.1(b) the parties shall proceed to build a substitute party wall.

3.1.4 The construction of any party wall, any substitute party wall and any modification to any party wall shall be carried out:

- (i) in a proper and workmanlike manner;
- (ii) in accordance with plans and specifications approved by the Grantor and the Grantee (such approval not to be unreasonably withheld) before any work (including any demolition work) is commenced;
- (iii) in accordance with the requirements of law and the local authority having jurisdiction;
- (iv) with all reasonable speed;
- (v) in such manner as to cause as little disturbance and nuisance as possible to the other land and the occupiers and users of the other land;
- (vi) in such manner as to ensure that the party wall, any building supported by the party wall, and any land affected shall not be rendered unstable or unsafe or jeopardised in any manner.

  
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- 3.1.5 A party exercising any rights under these conditions shall make good at the expense of that party, any damage which may be caused to the other land and any improvements situated on the other land.
- 3.1.6 A party shall not be liable to contribute towards the cost of erection, maintenance, repair or modification of any party wall unless and until such party makes use of such party wall or such modification PROVIDED THAT:
- (i) any party exercising the rights conferred by clause 3.1(b) shall be solely liable for the cost of demolition of the existing party wall, the construction of the substitute party wall and any reinstatement required to any buildings or land affected;
  - (ii) the parties shall bear equally the costs of demolition of any existing party wall and erecting a substitute party wall pursuant to clause 3.1(c);
  - (iii) the provisions of this clause shall apply notwithstanding the provisions of any other clause in this instrument relating to liability for costs.
- 3.1.7 The existing party wall and any party wall erected pursuant to the party wall easement shall be and remain the common property of the Grantor and the Grantee who shall have equal rights to the use, ownership and enjoyment of the party wall during the term.
- 3.1.8 The Grantor shall have the right after having given the Grantee forty eight (48) hours prior written notice of the Grantor's intention to do so enter upon the servient tenement with the Grantor's employees and contractors for the purpose of inspecting the condition of the party wall and shall do so with the least possible inconvenience to the Grantee.
- 3.1.9 The provisions of this clause shall apply to a substitute party wall.

The Grantor and Grantee in each case in respect of each party wall easement shall keep and maintain the applicable party wall well and properly supported, repaired, cleansed and maintained and shall not do or permit anything to be done which may in any way injure, weaken or destroy the party wall or any part thereof or which may cause the party wall to carry a greater weight or load than it can safely, without injury, support and shall not do or permit to be done whereby the party wall shall be rendered unstable or unsafe or be jeopardised in any manner whatsoever.

4. **General Provisions relating to certain easements:**

- 4.1 The following provisions shall apply to all easements where pipes and conduits are used in conjunction with such easements:
- 4.1.1 The costs of installing, laying, keeping and maintaining in good order and condition the conduits or pipes laid, placed or erected under or over the surface of the specified area shall be borne in equal shares by such of the registered



proprietors for the time being of the dominant tenement and servient tenement which shall have the use of the conduits at the point where the maintenance as aforesaid is required provided that the point where any of the conduits serving only one Lot connect with a common line of conduits shall be deemed to be part of that common line.

4.1.2 The Grantor shall not permit the growth of any trees, shrubs or other vegetation or the erection or establishment of any structure whatsoever which:

- (i) May interfere with such easements or
- (ii) May endanger or cause nuisance to the easements or persons working on the easements in the course of their duties or
- (iii) Breach any by-law or regulation or any other statutory provision relating to such easements.

5. **Default**

If any party ("the defaulting party") neglects or refuses to perform or join with the other party ("the other party") in performing any obligations under this instrument the following shall apply:

5.1 The other party may serve upon the defaulting party a written notice ("a default notice") requiring the defaulting party to perform or to join in performing such obligation and stating that, after the expiration of seven (7) days from service of the default notice the other party may perform such obligation.

5.2 If at the expiry of the default notice the defaulting party still neglects or refuses to perform or join in performing the obligation the other party may:

- (i) perform such obligation; and
- (ii) for that purpose enter the relevant servient tenement or dominant tenement and carry out any work.

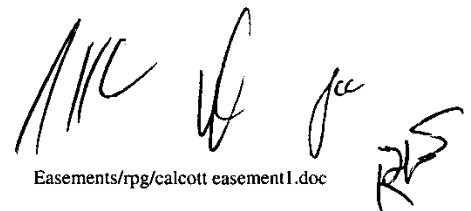
5.3 The defaulting party shall be liable to pay to the other party the costs of the default notice and the specified proportion of costs incurred in performing such obligation.

5.4 The other party may recover from the defaulting party as a liquidated debt any moneys payable pursuant to this clause.

6. **Prohibited Act**

The Grantor shall not do any act or allow any act to be done which impedes, interferes with or restricts the rights of the Grantee and other authorised persons in relation to any easement created herein.

7. **Grantee's rights**



7.1 The Grantee may for the purpose of complying with any obligation of the Grantee under this instrument in relation to any easement:

- (i) enter the servient tenement with or without agents, employees and contractors with all necessary tools, implements, machinery, vehicles or equipment; and
- (ii) remain on the servient tenement for such time as is reasonable for the purpose of performing such obligation;

7.2 In exercising any rights under this clause the Grantee shall:

- (i) cause as little damage, disturbance, inconvenience and interruption to the servient tenement and to the use of the servient tenement as is reasonably necessary; and
- (ii) forthwith make good any damage done to the servient tenement and to the occupier of the servient tenement.

## 8. Costs

8.1 Subject to any prior provisions contained in this instrument relating to the payment of costs the parties who are entitled to the benefit of the respective easements shall pay all costs incurred relating to the easements equally between them unless the incurring of such costs was caused by the deliberate act or omission of any party hereto, in which case that party shall be solely responsible for such costs.

## 9. Dispute Resolution

9.1 Any dispute or difference which may arise between the parties concerning the interpretation of these presents or relating to any other matter arising hereunder will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences. If the parties cannot resolve a dispute or difference within fifteen (15) working days of any dispute or difference arising then, unless otherwise expressly provided herein, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using mediation. The rules governing any such mediation if adopted will be agreed between the parties or as selected by the organisation known as the Arbitrators and Mediators Institute of NZ Inc and any dispute or difference not able to be resolved by agreement or with reference to mediation in accordance with the foregoing provisions of this clause shall be referred to arbitration in the manner provided by the Arbitration Act 1996 or any amendment or re-enactment thereof for the time being in force or any Act passed in substitution therefor and the decision thereof shall be final and binding upon such proprietors.

**Annexure Schedule - Consent Form**

Land Transfer Act 1952 section 238(2)



Insert type of instrument  
"Caveat", "Mortgage" etc

**Easement Instrument to Grant Easement**

Page **1** of **1** pages

**Consentor**

Surname must be underlined or in CAPITALS

**Capacity and Interest of Consentor**

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

**BANK OF NEW ZEALAND LIMITED**

**Mortgage D368165.2**

**Consent**

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [ ] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]

[section \_\_\_\_\_ of the \_\_\_\_\_ Act \_\_\_\_\_]

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:

**the creation of a party wall easement in terms of DP 162056.**

Dated this 29th day of January 2004

**Attestation**

SIGNED for and on behalf of BANK OF NEW ZEALAND by its Attorneys

Noel Ronald Letford

Richard Marten

Signed in my presence by the Consentor

Signature of Witness

Witness to complete in BLOCK letters (unless legibly printed)

Witness name

**Leigh Carin Bernard**

Occupation

**Auckland**

Address

**Bank Officer**

Signature of Consentor

An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.



**Bank of New Zealand**


**CERTIFICATE OF NON-REVOCATION  
OF POWER OF ATTORNEY**

We, Noel Ronald Letford and Richard Marten both of Auckland, Bank Officers, severally certify that:


1. By deed dated 26 October 2001 (the "Deed"), we were, by virtue of being respectively a Second Authorised Officer, and a Second Authorised Officer, appointed jointly as attorneys of Bank of New Zealand (the "Bank") on the terms and subject to the conditions set out in the Deed.
2. Copies of the Deed are deposited in the following registration districts of Land Information New Zealand as follows:

Canterbury	as No.	5110221
North Auckland	as No.	D657518.1
Otago	as No.	5110774
South Auckland	as No.	5110008
Taranaki	as No.	483763.1
Wellington	as No.	5110812
3. We have executed the instrument(s) to which this certificate relates under the powers conferred by the Deed.
4. At the date of this certificate we have not received any notice or information of the revocation of that appointment by the dissolution of the Bank or otherwise.

SIGNED at Auckland this 29<sup>th</sup> January 2004

  
\_\_\_\_\_  
Noel Ronald Letford

SIGNED at Auckland this 29<sup>th</sup> January 2004

  
\_\_\_\_\_  
Richard Marten

**Annexure Schedule - Consent Form**

Land Transfer Act 1952 section 238(2)



Insert type of instrument  
"Caveat", "Mortgage" etc

**Easement Instrument to Grant Easement**

Page **1** of **1** pages

**Consentor**

Surname must be underlined or in CAPITALS

**Capacity and Interest of Consentor**

(eg. Caveator under Caveat no./Mortgagee under Mortgage no.)

**NATIONAL BANK OF NEW ZEALAND LIMITED**

**Mortgage C967277.1**

**Consent**

Delete Land Transfer Act 1952, if inapplicable, and insert name and date of application Act.

Delete words in [ ] if inconsistent with the consent.

State full details of the matter for which consent is required.

Pursuant to [section 238(2) of the Land Transfer Act 1952]

[section \_\_\_\_\_ of the \_\_\_\_\_ Act \_\_\_\_\_]

[Without prejudice to the rights and powers existing under the interest of the Consentor]

the Consentor hereby consents to:

**the creation of a party wall easement in terms of DP 162056.**

Dated this \_\_\_\_\_ day of **19 JAN 2004** 2004

**Attestation**

<p style="text-align: center;">NICOLA KATHRYN GEE <i>Nicola Kathryn GEE</i> Attorney</p> <p>Signature of Consentor</p>	<p><b>Signed in my presence by the Consentor</b></p> <hr/> <p><b>Signature of Witness</b></p> <p><i>Witness to complete in BLOCK letters (unless legibly printed)</i></p> <p>Witness name <i>Sri Lata Raghuraman</i></p> <p>Occupation <b>WITNESS: LATA RAGHURAMAN</b></p> <p>Address <b>OCCUPATION: BANK OFFICER</b></p> <p><b>ADDRESS: AUCKLAND</b></p>
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An Annexure Schedule in this form may be attached to the relevant instrument, where consent is required to enable registration under the Land Transfer Act 1952, or other enactments, under which no form is prescribed.



**The National Bank**  
of New Zealand Limited

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

**I**, Nicola Kathryn Gee, Manager Lending Services of Auckland in New Zealand **HEREBY CERTIFY:**

1. **THAT** by Deed dated 28 June 1996 deposited in the Land Registry Offices situated at:

Auckland	as No	D.016180	Hokitika	as No	105147
Blenheim	as No	186002	Invercargill	as No	242542.1
Christchurch	as No	A.256503.1	Napier	as No	644654.1
Dunedin	as No	911369	Nelson	as No	359781
Gisborne	as No	G.210991	New Plymouth	as No	433509
Hamilton	as No	B.355185	Wellington	as No	B.530013

The National Bank of New Zealand Limited (the "Bank") appointed me its Attorney with the powers and authorities specified in that Deed.

2. **THAT** at the date of this Certificate, I am the Manager Lending Services, Auckland Regional Support Centre of the Bank.
3. **THAT** at the date of this certificate, I have not received any notice or information of the revocation of that appointment by the winding-up or dissolution of the Bank or otherwise.

DATED at Auckland this                      day of                      2004

**19 JAN 2004**