

Easement in Gross Acquired—State Highway 1 Brynderwyn Hill, Whangarei District

Pursuant to sections 20(1) and 28 of the Public Works Act 1981, and to a delegation from the Minister for Land Information, Szi Ming Lee, Land Information New Zealand, declares that, pursuant to an agreement to that effect having been entered into, the easement in gross described in the Second Schedule to this notice is acquired for the functioning indirectly of a road over the land of 64 State Highway One Limited (“Grantor”) described in the First Schedule to this notice upon the terms and conditions set out in the Third Schedule to this notice and shall vest in the Crown (“Grantee”) on the date of publication of this notice in the *New Zealand Gazette*.

North Auckland Land District—Whangarei District

First Schedule

The Grantor’s Land

Section 18 SO 510398 comprised in Record of Title 953182 (“Burdened Land”)

Second Schedule

Easement in Gross Acquired

A right to drain water easement in gross over the land marked P on SO Plan 510398.

Third Schedule

Rights and Powers of Required Easements

Unless otherwise provided below, the easements shall contain the rights and powers implied in specified classes of easement prescribed by the Land Transfer Regulations 2018 with the following variations:

The rights and powers implied in Schedule 5 of the Land Transfer Regulations 2018 are varied as follows:

General Rights

1. Clause 10 of Schedule 5 of the Land Transfer Regulations 2018 is substituted as follows:

(1) The easement includes the right for the grantee at its sole discretion:

(a) to use, upgrade, replace, maintain and repair the easement facility; and

(b) to construct in the easement area an easement facility that the grantee reasonably requires for the better enjoyment of its rights under this easement.

(2) The grantor must not do and must not allow to be done on the burdened land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.

(3) The grantee must not do and must not allow to be done on the burdened land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the easement facility.

Repair, Maintenance and Costs

2. Clause 11 of Schedule 5 of the Land Transfer Regulations 2018 is substituted as follows:

(1) Subject to paragraphs (3) and (4), the grantee will be solely responsible for the repair and maintenance of the easement facility within the easement area, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.

(2) The grantee must meet any associated requirements of the relevant local authority.

(3) Any repair or maintenance of the easement facility that is attributable solely to an act or omission by the grantor must be promptly carried out by the grantor at its sole cost.

(4) However, if the repair and maintenance of the easement facility is only partly attributable to an act or omission by the grantor—

(a) the grantor must pay the portion of the costs of the repair and maintenance that is attributable to that act or omission; and

(b) the balance of those costs is payable by the grantee.

(5) The grantee acknowledges the grantor’s concern that when there are significant rain events and large volumes of water flow out of the easement facility from the State Highway adjoining the easement area, damage can occur to the burdened land. Where such damage occurs, the grantor may contact Waka Kotahi NZ Transport Agency, and the grantee agrees to repair those parts of the burdened land damaged as a result of the operation of the easement facility, within a reasonable period of time of being notified of such damage.

Rights of Entry

3. Clause 12 of Schedule 5 of the Land Transfer Regulations 2018 is substituted as follows:

(1) The grantee may, for the purpose of exercising any right or power, or performing any related duty, implied in

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an easement by these regulations—

- (a) enter upon the burdened land by a reasonable route and with all necessary tools, vehicles, and equipment; and
- (b) remain on the burdened land for a reasonable time while exercising any right or power under this easement; and
- (c) leave any vehicles or equipment on the burdened land for a reasonable time while exercising any right or power under the easement.

(2) Except in the case of emergency, the grantee will give reasonable notice to the grantor of its intention to enter the burdened land pursuant to paragraph (1).

(3) The grantee must ensure that as little damage or disturbance as possible is caused to the burdened land or to the grantor.

(4) The grantee must ensure that all work is performed properly.

(5) The grantee must ensure that all work is completed promptly.

(6) The grantee must immediately make good any damage done to the burdened land by restoring the surface of the land as nearly as possible to its former condition.

(7) The grantee must compensate the grantor for all damage caused by the work to any crop (whether ready for harvest or not) or to any buildings, erections, or fences on the burdened land.

General

4. In the event a conflict exists between the provisions of Schedule 5 of the Land Transfer Regulations 2018 and the modifications in this easement, the modifications will prevail.

5. The grantee is the Crown and includes Waka Kotahi NZ Transport Agency, its contractors and invitees where the context requires this and vice versa.

Dated at Wellington this 8th day of November 2023.

SZI MING LEE, for the Minister for Land Information.

(LINZ CPC/2013/17320)