

# View Instrument Details



**Instrument No** 11702654.2  
**Status** Registered  
**Date & Time Lodged** 30 June 2020 10:42  
**Lodged By** Cameron, Eoin Malcolm Donald  
**Instrument Type** Encumbrance



**Toitū Te Whenua**  
**Land Information**  
**New Zealand**

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Affected Records of Title	Land District
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687238	Wellington
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**Annexure Schedule** Contains 4 Pages.

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## Encumbrancer Certifications

I certify that I have the authority to act for the Encumbrancer 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 Eoin Malcolm Donald Cameron as Encumbrancer Representative on 21/07/2020 11:47 AM

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## Encumbrancee Certifications

I certify that I have the authority to act for the Encumbrancee 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 Keely Anne Marbeck as Encumbrancee Representative on 23/07/2020 12:42 PM

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

Form 18

## Encumbrance Instrument

(Section 100 Land Transfer Act 2017)

Land registration district

Wellington

Record of Title (unique identifier)

All/part

Area/Description of part

687238

All

Encumbrancer

Surname(s) must be underlined

RONALD JOSEPH OSBORNE

Encumbrancee

NEW ZEALAND TRANSPORT AGENCY

Estate or interest to be encumbered

insert e.g. Fee simple; Leasehold in Lease No. etc.

Fee simple

Encumbrance Memorandum Number

Not applicable

Nature of security

State whether sum of money, annuity or rentcharge and amount

Rent charge of TEN DOLLARS (\$10.00) per annum, and such other sums of money as are payable by the Encumbrancer to the Encumbrancee pursuant to this Encumbrance Instrument.

Encumbrance

Delete words in [ ], as appropriate

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above computer register(s) with the above sum of money, annuity or rentcharge, to be raised and paid in accordance with the terms set out in the Annexure Schedule and so as to incorporate in this Encumbrance the terms and other provisions set out in the Annexure Schedule for the better securing to the Encumbrancee the payment(s) secured by this Encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

Continue in additional Annexure Schedule, if required

#### BACKGROUND

- A **RONALD JOSEPH OSBORNE** (together with his successors, assignees, tenants, lessees and persons under its control) (*Encumbrancer*) is registered as proprietor of an estate in fee simple in all that parcel of land described on the front page of this Encumbrance Instrument (*Land*).
- B The Land is in the vicinity of the Mackays to Peka Peka Expressway (*State Highway*).
- C Under sections 61(1) and 80(1) of the Government Roading Powers Act 1989, the Encumbrancee has sole powers of control for all purposes of all State highways and motorways.
- D For valuable consideration the Encumbrancer has agreed to encumber the Land for the benefit of the Encumbrancee with the security specified on this front page of this Encumbrance Instrument, and to covenant with the Encumbrancee to secure compliance by the Encumbrancer with the agreements set out in this Encumbrance Instrument.

#### OPERATIVE PROVISIONS

- 1 If, on the due date for payment of the rent charge imposed under this Encumbrance Instrument, the Encumbrancer has fully complied with all of the obligations imposed pursuant to this Encumbrance Instrument, then the rent charge payable on that day shall not be required to be paid by the Encumbrancer.
- 2 The Encumbrancer acknowledges that the covenants in this Encumbrance Instrument are of a permanent nature, and the Encumbrancer shall not be entitled to a discharge of the Encumbrance Instrument during the term, whether by payment of the total security or otherwise.
- 3 The Encumbrancer covenants with the Encumbrancee that the Encumbrancer will ensure that:
  - 3.1 (a) any new buildings or alterations to existing buildings containing noise sensitive activities, in or partly within 40 metres from the state highway edgeline must be designed, constructed and maintained to achieve road-traffic vibration levels complying with class C of NS 8176E:2005;
  - (b) any new buildings or alterations to existing buildings containing noise sensitive activities, in or partly within 100 metres from the state highway edgeline must be designed, constructed and maintained to achieve the indoor design noise levels from road-traffic set out in the table contained in the Schedule to this Encumbrance Instrument;
  - (c) if windows must be closed to achieve the design noise levels set out in the table contained in the Schedule to this Encumbrance Instrument, the building must be designed, constructed and maintained with a ventilation and cooling system. For habitable spaces a ventilation cooling system must achieve the following:
    - i. ventilation must be provided to meet clause G4 of the New Zealand Building Code. At the same time, the sound of the system must not exceed 30 dB LAeq(30s) when measured 1 m away from any grille or diffuser;

*Continue in additional Annexure Schedule, if required*

- 4.3 not to claim any compensation in relation to any such Effects arising from State Highway Activities;
- 4.4 not to fund, encourage or otherwise be involved in, any act, matter or thing that if carried out by the Encumbrancer itself would breach paragraphs 4.1 to 4.3 above;
- 4.5 to provide a copy of this Encumbrance to all tenants, lessees, and holders of unregistered interests in the Land (each a *third party*) who acquire rights in the Land while the Encumbrancer is the registered proprietor of the Land:
  - (a) where the Encumbrancer grants the rights in the Land to that third party, prior to the Encumbrancer doing so; or
  - (b) in all other cases, as soon as practicable after the Encumbrancer becomes aware of that third party acquiring any rights in the Land.
- 5 This Encumbrance Instrument shall be binding on all transferees, tenants (to the extent permitted by law), lessees, mortgagees, chargeholders and their respective successors in title and assigns of any estate or interest in the Land.
- 6 Where this Encumbrance Instrument binds or benefits a party, it shall bind or benefit that party jointly and severally.
- 7 The Encumbrancer covenants with the Encumbrancee:
  - 7.1 to pay all legal costs and disbursements in the preparation, execution, registration, enforcement and any ultimate release of this Encumbrance Instrument, in respect of any consents sought by the Encumbrancer from the Encumbrancee to the registration of any instrument, and in respect of the performance and observance by the Encumbrancer of this Encumbrance Instrument including legal costs on a solicitor/client basis; and
  - 7.2 to otherwise indemnify the Encumbrancee against any claims, loss and expense of whatever kind incurred by the Encumbrancee as a consequence of the Encumbrancer failing to comply with this Encumbrance Instrument **provided** always that this clause 7.2 shall not apply during any period that the Encumbrancer is the Crown as defined in section 2(1) of the Public Finance Act 1989.
- 8 The Encumbrancer will only be liable for breaches actually committed by the Encumbrancer itself, and not by any successor or other party, unless those breaches arise wholly or partly due to a breach by the Encumbrancer of clause 4.5.
- 9 No delay or failure by the Encumbrancee to enforce performance of any of the covenants set out in this Encumbrance Instrument and no indulgence granted to the Encumbrancer by the Encumbrancee shall prejudice the rights of the Encumbrancee to enforce any of the covenants or provisions of the Encumbrance Instrument.

Continue in additional Annexure Schedule, if required

- 14 The Encumbrancee will, upon request by the Encumbrancer, discharge this Encumbrance Instrument from any part of the Land that is to be vested as road or reserve in the relevant local authority.
- 15 For the purposes of the Property Law Act 2007 and the Land Transfer Act 2017, the Encumbrancee consents to the following dealings affecting the Land:
- (a) creation, variation or surrender of an easement or covenant (but not including any covenants contained in this Encumbrance Instrument);
  - (b) registration of a mortgage instrument, variation of a mortgage instrument or mortgage priority instrument where the priority of mortgages does not involve or concern this Encumbrance Instrument;
  - (c) registration of a lease, lease variation instrument or surrender of a lease; and
  - (d) any other instrument which is expressed as being subject to this Encumbrance Instrument or which ranks after this Encumbrance Instrument;
- and the Encumbrancee's further consent to any such dealings shall not be required.

**SCHEDULE**  
(Refer clause 3.1 (b))

BUILDING TYPE	OCCUPANCY/ACTIVITY	MAXIMUM INDOOR DESIGN NOISE LEVEL <i>L<sub>eq</sub>(24h)</i>
Residential	Living spaces, sleeping spaces (including visitor accommodation and retirement accommodation)	40 dB
Education	Assembly halls	35 dB
	Conference rooms, drama studios	40 dB
	Lecture rooms and theatres, music studios	35 dB
	Libraries	45 dB
	Sleeping areas in educational facilities	40 dB
	Teaching areas	40 dB
Health	Overnight medical care, wards	40 dB
	Clinics, consulting rooms, theatres, nurses' stations	45 dB
Cultural buildings	Places of worship, marae	35 dB

Note: Excludes areas not deemed to be habitable spaces as defined by schedule 1 of the Building Regulations 1992