

# Easement instrument to grant easement or *profit à prendre*

Section 109, Land Transfer Act 2017

Grantor

Surname(s) must be underlined.

[SPECIFY NAME OF GRANTOR- THIS SHOULD MATCH THE NAME OF THE REGISTERED PROPRIETOR OF THE BURDENED LAND]

Grantee

Surname(s) must be underlined.

TAUPO DISTRICT COUNCIL

## Grant of Easement or *Profit à prendre*

**The Grantor**, being the registered proprietor of the Burdened Land set out in Schedule A, **grants to the Grantee** (and, if so stated, in gross) the easement(s) or *profit(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 of Easement, or <i>profit</i>	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
[specify purpose e.g. right to convey water, right to drain water, right to drain sewage. Note that a right to drain stormwater is to be called "a right to drain water" so that it fits into an appropriate class in the Land Transfer Regulations]	[specify plan reference e.g. "A on DP 123456"]	[specify burdened land legal description e.g. "Lot 1 of DP 123456 (Record of title reference)"]	In Gross

## 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.

## Annexure Schedule

Insert type of instrument

Easement

Dated

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of

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Pages

*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 2018.

The implied rights and powers are ~~varied/negated/added to~~ or ~~substituted~~ by:

Memorandum number \_\_\_\_\_, registered under section 209 of the Land Transfer Act 2017.  
the provisions set out in the Annexure Schedule.

## Annexure Schedule

### Insert type of instrument

Easement Dated  Page  of  Pages

*Continue in additional Annexure Schedule, if required.*

The rights and powers implied in the above easements are those implied in easements by the Fifth Schedule of the Land Transfer Regulations 2018 (the **Regulations**) but varied or added to as follows:

1. Clause 12(7) of the Fifth Schedule to the Regulations shall be deleted.
2. For the purposes of clause 10(1)(b) of the Fifth Schedule to the Regulations, the Grantor is deemed to have given consent for the laying, installation and construction within the easement area of an easement facility that the Grantee may reasonably require from time to time.
3. The term "easement facility" in relation to a right to drain water includes swales and water channels created by shaping and altering the path of the easement area in a way suitable for a secondary flow path or paths for the purpose of handling water overflow.
4. Nothing contained in this instrument shall be deemed to compel the Grantee to drain water or sewage through the easement facility, or take or convey water through the easement facility, and the Grantee may discontinue such usage and recommence such usage at will.
5. No breach by the Grantee of the terms of this instrument shall entitle the Grantor to cancel or revoke this easement.
6. The Grantor shall not place any soak-hole, building, fence or structure (other than a boundary fence and a paved or sealed driveway) or other impediment along or over or through the easement area, and will not permit any vegetation to grow in or around the easement area if such vegetation is capable of damaging or obstructing or interfering with the easement facility. The Grantee may remove any such structure or vegetation or impediment from the easement area if, acting reasonably, the Grantee considers that such structure or vegetation or impediment will cause damage to, or obstruct or interfere with, the easement facility.
7. Where the easement area or easement facility is used as a secondary overland flow-path, the Grantor shall not allow the existing ground level within the easement area or easement facility to be altered, or place any fence (including a boundary fence) along or over or through the easement area or easement facility, without the prior written consent of the Grantee (which consent shall not be unreasonably withheld or delayed).
8. The Grantee may also enter upon the burdened land by a reasonable route and with all necessary tools, vehicles and equipment for a reasonable time for the purpose of inspecting the easement facility in order to determine whether repair and/or maintenance is required to be performed on the easement facility.
9. This easement instrument does not entitle the Grantor to any rights for any private drainage system located on the burdened land and does not impose any obligation on the Grantee to install, repair or maintain any such private drainage system. For the purpose of clarity of this clause 9, the term 'private drainage system' includes any part of such system, including but not limited to a sump, sump lead or surface drainage.
10. The Grantee will give to the Grantor reasonable notice of the Grantee's intention to enter onto any part of the burdened land (but may enter onto the burdened land at any time without notice in the case of an emergency). Whether or not the emergency exists will be decided by the Grantee, and the Grantee shall act reasonably in making its decision.
11. The words "provided the cost of any repair or maintenance of the easement facility which is necessary because of any act or omission of the Grantor shall be recoverable from the Grantor as a liquidated debt" are added to the end of clause 11(3) of the Fifth Schedule to the Regulations.

## Annexure Schedule

### Insert type of instrument

Easement

Dated

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*Continue in additional Annexure Schedule, if required.*

12. The Grantor shall be responsible for payment of any repair and maintenance costs of the easement facility and for the associated costs as a result of any activity done on the burdened land that interferes with the efficient operation of the easement facility.
13. Any rights or immunities from liability or powers or remedies which the Grantee may have by statute (such as and without limitation the Local Government Act 1974 and 2002, and the Resource Management Act 1991, or any amendment to or Act passed in substitution for, those Acts) or at common law are not affected by this instrument, and the Grantee shall have those rights or immunities and may exercise those powers or remedies independently.
14. Where the modifications in this Easement Instrument and provisions of the Fifth Schedule of the Regulations are in conflict the modifications in this Easement Instrument must prevail.