

MEMORANDUM OF ENCUMBRANCEWellington Registry

WHEREAS ANZ PENSIONS (NEW ZEALAND) LIMITED a duly incorporated company having its registered office at Wellington (hereinafter called "the Encumbrancer") is registered as the proprietor of an estate in fee simple set out in the schedule hereto:

SCHEDULE

<u>C.T. or Document No.</u>	<u>Area</u>	<u>Lot and D.P. or Other Description</u>
C.T. 480/54	334m ²	Lot 2 D.P. 11243
C.T. 458/198	334m ²	Lot 1 D.P. 11243

(hereinafter called "the said land")

AND WHEREAS by agreement in writing between the Encumbrancer and THE LOWER HUTT CITY COUNCIL (hereinafter called "the Encumbrancee") dated the 15th day of April 1981 the Encumbrancer agreed in relation to the said land and carport thereon to do certain things and to refrain from doing certain other things and to secure its performance and observance of the said agreement by granting to and making with the Encumbrancee the rent charge and covenants set forth in this memorandum NOW THIS MEMORANDUM WITNESS that the Encumbrancer HEREBY ENCUMBERS the said land for the benefit of the Encumbrancee with an annual rent charge of TEN DOLLARS (\$10.00) to be raised and paid at the times and in the manner following that is to say : in one annual sum on the 15th day of April 1981 and on the like 15th day of April in every year thereafter : PROVIDED ALWAYS that if during the twelve months immediately preceding the 15th day of April in any year there shall have been no breach of any of the obligations of this memorandum then the annual rent charge payable on such 15th day of April shall be deemed to have been paid and the Encumbrancer shall be entitled to an acknowledgment to that effect:

AND IT IS HEREBY COVENANTED AND DECLARED between the parties hereto as follows:

1. THE Encumbrancee by way of dispensation as set out in the aforementioned agreement HEREBY AUTHORISES the encumbrancer to erect on the said land a carport ~~of the dimensions~~^{over} and in the position shown on the plan attached hereto and to use the same solely for the purpose of loading, unloading and parking of vehicles.
2. IN consideration of the dispensation granted by the Encumbrancee as aforesaid the Encumbrancer HEREBY COVENANTS AND AGREES with the Encumbrancee that it will not use or suffer or permit the said carport to be used for any purpose other than loading, unloading and parking of vehicles

and will permanently cease to use the said carport and remove and demolish the same at the expiration of one calendar month's notice in writing addressed to the Encumbrancer by the Encumbrancee or on its behalf signed by the City Engineer of the Lower Hutt City Council and will effect such cessation of use and if so required by the said notice effect the demolition of the said carport to the satisfaction in all things of the City Engineer.

3. THE Encumbrancer will ensure that the carport remains permanently opened at all times during the continuance of this memorandum and will not in any circumstances permit the said carport to become a nuisance or annoyance to neighbouring occupiers and will as required by the City Engineer cause the same to be generally maintained to his satisfaction so long as this memorandum shall remain in full force and effect and the said carport remains on the said land.

4. IF default shall be made by the Encumbrancer in the performance of any of the covenants herein contained or if it shall permit the said carport to be used for any purpose other than that specified in Clause 2 hereof or shall commit any breach of the building by-laws of the Lower Hutt City Council or of the Code of Ordinances other than in accordance with the dispensation granted or if the encumbrancer shall fail or neglect to cease the use of the said carport for the purposes aforesaid and remove and demolish the same if required by the Encumbrancee it shall be lawful for the Encumbrancee by its servants agents or workmen without notice to enter upon the said land and by force if necessary to cause the cessation of the said use and the demolition of the said carport and the cost of so doing shall be borne by the Encumbrancer and shall be paid by it upon demand being made in writing for and on behalf of the Encumbrancee in that behalf and if payment is not so made the amount so due may be recovered by the Encumbrancee in an appropriate Court as a liquidated claim and the Encumbrancer indemnifies and saves harmless the Encumbrancee in respect of any loss or damage if any sustained by it or any person acting by its authority in exercise of the powers hereby conferred.

5. THE authority hereby created is a personal authority in favour of the Encumbrancer and if the Encumbrancer shall without the prior consent in writing of the Encumbrancee (which consent may be arbitrarily refused without assigning any reason) transfer or purport to transfer assign sublet or otherwise part with the possession of the said carport or any part thereof or enter into any agreement in regard to any transfer assignment subletting or otherwise then the authority hereby created shall be deemed automatically to be terminated and the powers of entry hereinbefore set out shall immediately become available to the Encumbrancee : AND IT IS

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, WILLIAM HANSON BROWN, of Wellington
in New Zealand, ~~Chief~~ Senior Manager for New Zealand of
ANZ Banking Group (New Zealand) Limited, hereby certify:

1. THAT by deed dated 4th day of June 1980 copies of which are deposited in the Land Transfer Offices at:-

AUCKLAND	as No.	797986.1	HOKITIKA	as No.	058179
CHRISTCHURCH	as No.	277620/1	INVERCARGILL	as No.	058332.1
BLENHEIM	as No.	99007	NAPIER	as No.	379045
DUNEDIN	as No.	535890	NELSON	as No.	204739.1
GISBORNE	as No.	135847.1	NEW PLYMOUTH	as No.	267854
HAMILTON	as No.	H289812	WELLINGTON	as No.	404738.1

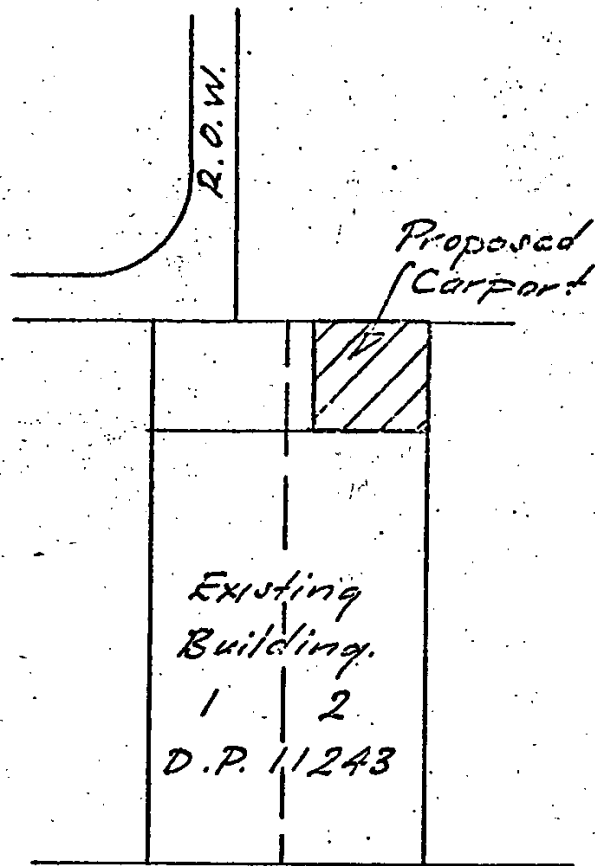
I was appointed Attorney of ANZ Pensions (New Zealand) Limited a company duly incorporated in New Zealand and having its Registered Office at Wellington, New Zealand on the terms and subject to the conditions set out in the said deed.

2. THAT at the date hereof I have not received any notice or information of the revocation of that appointment by the winding up or dissolution of the said ANZ Pensions (New Zealand) Limited or otherwise.

SIGNED at Wellington this 23rd day of March 1982



Senior Manager



Plan showing position of

Proposed Carport:

Blundell Bros. (Evening Post Ltd).

Scale: 40 ft to an inch:

AS

HEREBY DECLARED THAT:

1. SECTIONS 64 and 104 of the Property Law Act 1952 apply to this memorandum of encumbrance but that otherwise (and without prejudice to the Encumbrancee's right of action at common law as a rent charge:)

(a) The Encumbrancee shall be entitled to none of the powers and remedies given to mortgagees by the Land Transfer Act 1952 and the Property Law Act 1952 and -

(b) No covenants on the part of the Encumbrancer and its successors in title are implied in this memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.

2. THE Encumbrancee shall if called upon execute a memorandum of priority in favour of any subsequent mortgagee of the Encumbrancer or its successors.

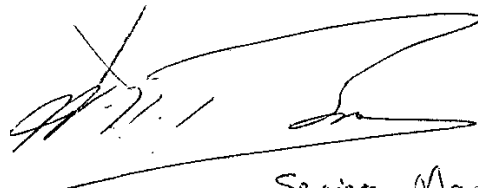
3. THE costs of the preparation, stamping and registration of this memorandum shall be borne in all respects by the Encumbrancer.

4. THIS rent charge shall immediately determine and the Encumbrancer shall be entitled to a discharge of this memorandum of encumbrance when the said carport is removed demolished or destroyed.


IN WITNESS WHEREOF these presents have been executed the 23rd day of March

One thousand nine hundred and eightytwo (1982)

SIGNED by ANZ PENSIONS (NEW ZEALAND LIMITED) by its attorney }
Senior Manager }
WILLIAM HANSON BROWN }
in the presence of }
Dm Rutherford }
Solicitor }
Wellington }


Senior Manager

Correct for the Purposes of the Land Transfer Act 1952


Solicitor for the Encumbrancee



ANZ PENSIONS (NEW ZEALAND) LIMITED

AND

LOWER HUTT CITY COUNCIL

MEMORANDUM OF ENCUMBRANCE

Hogg Gillespie Carter & Oakley,
Solicitors,
LOWER HUTT

**FEES PAID HEREOFON
AVAILABLE
TO 22 / 7 / 1982**

Copy
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NEW ZEALAND
SAR
WELLINGTON

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