

C344464.1 ENC

MEMORANDUM OF ENCUMBRANCE

WHEREAS

- A JUDITH ELLEN DOUGLAS of Auckland Laboratory Technician (hereinafter together with her successors in title referred to as "the Owner" is registered as proprietor of the land described in the Schedule hereto (hereinafter referred to as "the land").
- B THE Owner has requested WAITAKERE CITY COUNCIL (hereinafter referred to as "the Council") to consent to the erection of a vehicle access and retaining wall (the works) on dedicated road adjacent to the frontage of the land ~~as more particularly identified as that area shown outlined in red on the plan attached hereto (hereinafter called "the plan")~~. K
- C THE Council has consented to the erection of the works on the condition (inter alia) that the Owner enters into and executes this memorandum.

NOW THIS MEMORANDUM WITNESSES THAT:

1. THE Owner hereby encumbers all the land described in the Schedule hereto for the benefit of the Council for a term of 999 years commencing from 1st January 1992 with an annual rent charge of TEN DOLLARS (10.00) to be paid in advance on the 1st day of July of each year if demanded by that date.
2. THE Owner covenants as follows with the Council in respect of the land described in the schedule hereto:
  - (a) The Owner shall not erect the works or allow the works to be erected or use any of the works which may have been erected upon the aforementioned dedicated road area unless the works comply with all relevant building by-laws and until and unless the Council's structural checking Engineer shall have first approved the structural design thereof.

Statement of Passing over Information:

This information has been supplied by a third party. Accordingly, the Vendor and Austar Realty Limited are merely passing over this information as supplied to us by others. While we have passed on this information supplied by a third party, we have not checked, audited or reviewed the records or documents and therefore to the maximum extent permitted by law neither the Vendor nor Austar Realty Limited or any of its salespersons or employees accept any responsibility for the accuracy of the materials. Intending purchasers are advised to conduct their own investigation.

(b) The Owner has (or shall at the request of the Council) entered into a formal agreement authorising the use of the dedicated road area (such agreement to be in such form and at such rental as from time to time may be determined by the Council) and the owner shall pay in addition to the rent charge hereinbefore specified the fee specified in such agreement and observe and perform all the conditions therein.

(c) The works shall remain on the land ~~identified in the plan~~ at the will and pleasure of the Council and the Owner shall at her expense remove the works within one month of notification by the Council. K

3. The Owner shall pay the costs of preparation stamping and registration of this encumbrance and any other costs incurred by the Council in relation to this encumbrance.

4. SECTION 104 of the Property Law Act 1952 applies to this Memorandum of Encumbrance but otherwise (and without prejudice to the Council's rights of action at common law as a rent chargee or encumbrancee):

- a) The Council shall be entitled to none of the powers and remedies given to encumbrancees by the Land Transfer Act 1952 and the Property Law Act 1952; and
- b) No covenants on the part of the Owner are implied in this memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.

5. IF during the twelve (12) months preceding the 1st day of July 1992 and each successive twelve (12) months thereafter there shall have been no breach of the covenants contained herein or in the said agreement then the annual rent charge payable hereunder shall be deemed to have been paid.

6. THE covenants hereof shall be enforceable only against the owner or occupiers for the time being of the land described in the schedule hereto and not otherwise against any former owner or occupier of the land.

PD.

7. IN this memorandum covenants by any two or more persons shall be joint and several. Words importing the singular and plural number shall include the plural and singular number respectively.

SCHEDULE

1432m<sup>2</sup> more or less being Lot 1 Deposited Plan 22420 and being part of the South Eastern portion of Allotment 35 Parish of Waikomiti Certificate of Title 61A/730 (North Auckland Registry)

Subject to: Fencing Covenant in Transfer C 208176.1  
Certificate C 341604

1280m<sup>2</sup> more or less being Lot 2 Deposited Plan 22420 and being part of the South Eastern portion of Allotment 35 Parish of Waikomiti Certificate of Title 61A/731 (North Auckland Registry)

Subject to: Fencing Covenant in Transfer C 208176.1  
Certificate C 341604

AD.

Dated the 28th January 1992

SIGNED by the said JUDITH ELLEN DOUGLAS )

as owner in the presence of: )

*J. Douglas*

*JED*

LEGAL EXECUTIVE  
KENSINGTON SWAN  
SOLICITORS  
AUCKLAND

~~THE COMMON SEAL of the WAITAKERE CITY~~ )  
~~COUNCIL~~ was hereunto affixed in the )  
~~presence of:~~ )

*JE*

~~CHIEF EXECUTIVE OFFICER~~

~~GENERAL MANAGER: FINANCE & ADMINISTRATION~~

Carried for the purposes of the  
Land Transfer Act

*[Signature]*  
Solicitor for the owner

[illegible]

deleted  
JD.

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SHE
3. For  
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DUPLICATE

MEMORANDUM OF ENCUMBRANCE

JUDITH ELLEN DOUGLAS

OWNER

WAITAKERE CITY COUNCIL

ENCUMBRANCEE

Particulars entered in the Register  
as shown in respect of the land  
referred to herein

Assistant Land Registrar  
North Auckland Land Registry

12.39.04.FEB92 C 344464  
PARTICULARS ENTERED IN REGISTER  
LAND REGISTRY AUCKLAND  
ASST. LAND REGISTRAR  
Waitakere City Council  
Private Bag  
WAITAKERE CITY

