

MEMORANDUM OF ENCUMBRANCE

B46S4261 ENE

WHEREAS

i IAN GEORGE MCHARDY of Henderson, Solicitor (hereinafter referred to as "the Owner") is registered as proprietor of an estate in fee simple in all that parcel of land comprising 4.5625 hectares more or less, being Lots 9 and 10 on Deposited Plan 32317 and Lots 11, 12 and 13 on Deposited Plan ³²³¹⁸ (Town of Waiatarua Extension No. 36) and being part Allotment 367 of the Parish of Waikomiti and being all the land comprised and described in Certificate of Title Volume 883, Folio 245, North Auckland Registry, SUBJECT TO Agreement as to Fencing contained in Transfer No 425528 AND TO Mortgage No. B319567.2.

B.4

ii THE Owner has requested the WAITEMATA CITY COUNCIL (hereinafter called "the Council") to consent to a plan of subdivision of the above described land in terms of a plan lodged for deposit under No. 106608.

iii THE Council has agreed to consent to such subdivision on the condition (inter alia) that the Owner enters into and executes these presents.

NOW THIS MEMORANDUM WITNESSETH that:

1. THE Owner hereby encumbers all the lands described in the Schedule hereto for the benefit of the Council for a term of 999 years commencing from 1st June 1985 with an annual rent charge of TEN DOLLARS (\$10.00) to be paid on the 1st day of July each year if demanded by that date.

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Stamp Duty

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.

2. THE Owner for himself and his successors in Title covenants with the Council that in respect of the land described in the Schedule hereto the foundations of any residential building erected on the land described in the Schedule hereto will be subject to specific design by a registered engineer.

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 encumbrancer):

- (a) The Council shall be entitled to none of the powers and remedies given to encumbrancers by the Land Transfer Act 1952 and the Property Law Act 1952, and;
- (b) No covenants on the part of the Owner and his 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.

5. IF during the twelve (12) months preceding the first day of June 1986 and each successive twelve (12) months thereafter there shall have been no breach of the covenants contained herein then the annual rent charge payable hereunder shall be deemed to have been paid and the Owner shall be entitled to an acknowledgement to that effect.

6. THE covenants contained in Cluase 2 hereof shall be enforceable only against the Owners and occupiers for the time being of the land described in the Schedule hereto and not otherwise against the Owner or his successors in title.

IN WITNESS WHEREOF these presents have been executed
the 15th day of September 1985.

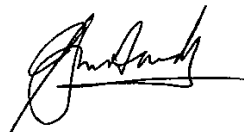
SCHEDULE

An estate in fee simple in all those parcels of land comprising as follows:-

<u>AREA</u>	<u>LOT</u>	<u>DP</u>	<u>CT</u>
4542m ²	1	106608	
5283m ²	2	106608	
3379m ²	3	106608	
4713m ²	4	106608	
4184m ²	5	106608	
4002m ²	6	106608	
4001m ²	7	106608	
4364m ²	8	106608	
3378m ²	9	106608	
5351m ²	10	106608	

SIGNED by the said)
IAN GEORGE McHARDY)
in the presence of:-)

Carmela Maltardy S.P.
Manager
Henderson.



MEMORANDUM OF ENCUMBRANCE

IAN GEORGE McHARDY

Owner

WAITEMATA CITY COUNCIL

Encumbrancer

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

Assistant Land Registrar
North Auckland Land Registry

Correct for the purposes
Land Transfer Act 1952

1.59 02.OCT.85 B 465428
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASST. LAND REGISTRAR

883 / 245



Solicitor for the Encumbrancer

EARL KENT & CO.
SOLICITORS
HENDERSON

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