

View Instrument Details



Instrument No 10614218.6
Status Registered
Date & Time Lodged 18 November 2016 16:54
Lodged By Neems, Nina Patricia
Instrument Type Encumbrance



Affected Computer Registers	Land District
751510	South Auckland
751511	South Auckland
751512	South Auckland
751513	South Auckland
751514	South Auckland
751515	South Auckland
751517	South Auckland
751518	South Auckland
751519	South Auckland
751520	South Auckland
751521	South Auckland
751522	South Auckland
751523	South Auckland
751524	South Auckland
751525	South Auckland
751526	South Auckland
751527	South Auckland
751528	South Auckland
751529	South Auckland
751530	South Auckland
751531	South Auckland
751532	South Auckland
751533	South Auckland
751535	South Auckland
751536	South Auckland
751537	South Auckland
751538	South Auckland
759164	South Auckland
763977	South Auckland
763978	South Auckland

Annexure Schedule: Contains 9 Pages.

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 ☒

Encumbrancer Certifications

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 Graeme William Halse as Encumbrancer Representative on 07/12/2016 10:26 AM

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 Graeme William Halse as Encumbrancee Representative on 07/12/2016 10:26 AM

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

Encumbrance instrument
(Section 101 Land Transfer Act 1952)

2015/6249
APPROVED
Registrar-General of Land

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Affected Instrument Identifier and type (if applicable)	All/part	Area/Description of part or stratum
See First Schedule Annexure Schedule A		See First Schedule Annexure Schedule A

Encumbrancer

MOTEL HOLDINGS LIMITED

Encumbrancee

MOTEL HOLDINGS LIMITED

Estate or interest to be encumbered*Insert e.g. Fee simple; Leasehold in Lease No. etc.***Encumbrance Memorandum Number***(if applicable)***Nature of security***State whether sum of money, annuity or rentcharge and amount*

Rent charge of \$1.00 per annum

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 ~~[above Encumbrance Memorandum]~~ [Annexure Schedule(s)] and so as to incorporate in this Encumbrance the terms and other provisions set out in the ~~[above Encumbrance Memorandum]~~ ~~[and]~~ [Annexure Schedule(s)] 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.

Terms

- 1 Length of term **999 years from the date of this encumbrance**
- 2 Payment date(s) **30 June in each year if demanded by that date**
- 3 Rate(s) of interest **NIL**
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable
If demanded
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable
if the obligations set out in the Annexure become obsolete

Covenants and conditions

Continue in Annexure Schedule(s), if required

See Annexure Schedule A

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

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*Continue in additional Annexure Schedule, if required.***1. DEFINITIONS AND INTERPRETATION**

1.1. **Definitions:** In this instrument, unless the context indicates otherwise:

Encumbrancee means the person names as the Encumbrancee in this instrument and includes the person for the time being registered as the proprietor of the Land but only as long as he or she has an interest in the Land;

Encumbrancer means the person names as the Encumbrancer in this instrument and includes the person for the time being registered as the proprietor of the Land but only as long as he or she has an interest in the Land;

Land means the Encumbrancer's land comprised in computer freehold registers:

751510 South Auckland Registry
 751511 South Auckland Registry
 751512 South Auckland Registry
 751513 South Auckland Registry
 751514 South Auckland Registry
 751515 South Auckland Registry
 763977 South Auckland Registry
 751517 South Auckland Registry
 751518 South Auckland Registry
 751519 South Auckland Registry
 751520 South Auckland Registry
 751521 South Auckland Registry
 751522 South Auckland Registry
 751523 South Auckland Registry
 751524 South Auckland Registry
 751525 South Auckland Registry
 751526 South Auckland Registry
 751527 South Auckland Registry
 751528 South Auckland Registry
 751529 South Auckland Registry
 751530 South Auckland Registry
 751531 South Auckland Registry
 751532 South Auckland Registry
 751533 South Auckland Registry
 763978 South Auckland Registry
 751535 South Auckland Registry
 751536 South Auckland Registry
 751537 South Auckland Registry
 751538 South Auckland Registry
 759164 South Auckland Registry

Lot means any lot contained within the Land;

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*Continue in additional Annexure Schedule, if required.***Term** means 999 years from the date of this encumbrance.1.2. **Interpretation:** In this instrument, unless the context indicates otherwise:

- (a) **Defined Expressions:** expressions defined in the main body of this instrument have the defined meaning throughout this instrument, including the background;
- (b) **Headings:** clause and other headings are for ease of reference only and will not affect this instrument's interpretation;
- (c) **Parties:** references to any party include that party's executors, administrators, successors and permitted assigns;
- (d) **Persons:** references to a **person** include an individual, company, corporation, partnership, firm, joint venture, association, trust, unincorporated body of persons, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal identity;
- (e) **Plural and singular:** references to the singular include the plural and vice versa;
- (f) **Clauses/Schedules/Attachments:** references to clauses, schedules and attachments are to clauses in, and the schedules and attachments to, this instrument. Each such schedule and attachment forms part of this instrument.
- (g) **Statutory Provisions:** references to any statutory provision are to statutory provisions in force in New Zealand and include any statutory provision which amends or replaces it, and any by-law, regulation, order, statutory instrument, determination or subordinate legislation made under it; and
- (h) **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done.

2. **COVENANTS**

- 2.1. The Encumbrancer is registered as proprietor of the land and acknowledges and confirms the matters set out in Schedule 1 and covenants with the Encumbrancee to perform the obligations set out in Schedule 1.

3. **DISCHARGE OR REDEMPTION**

- 3.1. The Encumbrancer irrevocably covenants with the Encumbrancee for the Term that, for as long as all the Encumbrancer's Covenants are not fully performed:

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Continue in additional Annexure Schedule, if required.

- (a) the Encumbrancee will have no obligation to discharge this encumbrance instrument under section 97 of the Property Law Act 2007 or otherwise;
- (b) the Encumbrancer will not take any steps whatsoever, including, without limitation, pursuant to section 97 of the Property Law Act 2007 or section 115 of the Property Law Act 2007 to redeem or discharge this encumbrance instrument, or pursuant to section 317 of the Property Law Act 2007 to have this encumbrance instrument revoked, cancelled, surrendered, discharged, lapsed or otherwise removed from the title to the Land;
- (c) the Encumbrancer will not support any such steps being taken by a third party; and
- (d) the Encumbrancer surrenders and waives any right, entitlement or ability that the Encumbrancer may have to have this encumbrance instrument discharged, redeemed, revoked, cancelled, surrendered, discharged, lapsed or otherwise removed from the title to the Land.

3.2. To avoid any doubt:

- (a) if the Encumbrancer's Covenants are of a restrictive nature, for example by requiring the Encumbrancer not to do something, the performance of those obligations will require the Encumbrancer to observe and comply with those restrictions; and
- (b) where the Encumbrancer's Covenants are of a continuing nature, they will be treated as not having been fully performed for as long as they are capable of still being performed, observed or complied with.

4. COSTS

The Encumbrancer will pay all legal costs directly or indirectly attributable to the preparation, registration, enforcement and discharge of this encumbrance instrument.

5. IMPLIED TERMS

Sections 203, 204 and 205 of the Property Law Act 2007 apply to this encumbrance instrument but otherwise (and without prejudice to the Encumbrancee's right of action at common law as a rent chargee or encumbrancee):

- 5.1. the Encumbrancee is entitled to none of the powers and remedies of encumbrancees by the Land Transfer Act 1952 and the Property Law Act 2007; and
- 5.2. no covenants by the Encumbrancer or his or her successors in title are implied in this encumbrance instrument other than the covenants for further assurance implied by section 154 of the Land Transfer Act 1952.

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*Continue in additional Annexure Schedule, if required.***SCHEDULE 1**

The registered proprietor from time to time of each lot described in Schedule 2 ("Lot") comprising the Land, has agreed to encumber each lot severally for the better performance of the obligations of the registered proprietor, from time to time, of a Lot to the Encumbrancee.

1. Covenants

- 1.1 The Encumbrancer hereby encumbers the Land and each lot severally for the benefit of the Encumbrancee, for a term of 999 years commencing on the date of this encumbrance, with an annual rent charge of \$1.00 in respect of each Lot.

2. No Objection

- 2.1 The Encumbrancer shall not be entitled to make any objection to the commercial activities of any of the business enterprises carried out on the Lots set out in Schedule 3.
- 2.2 The Encumbrancer will not object to the Lots set out in Schedule 4 undertaking further development on such Lots. The Encumbrancer warrants that it will not make any objection, or submission to take any issue or cause any impediment or delay to any Application for Resource Consent under the Resource Management Act 1991 or any other Application for a Land Use Consent to facilitate any development on the Lots set out in Schedule 4. If called upon to do so by the registered proprietor of any one or more of the Lots set out in Schedule 4, the Encumbrancer will sign a consent to support any application to any relevant authority for such consents as may be required under the Resource Management Act 1991, or any other Act imposing the need to obtain consent to development of the land and the Owner will not encourage or assists any other party to object to or attempt to prevent or delay any such development of the Lots set out in Schedule 4.

3. Option to Purchase

If at any time the Encumbrancer receives an offer to purchase the Lot ("the Offer") and wishes to accept the offer then:

- 3.1 Any such offer shall be expressed to be conditional upon the Offer first being referred to Motel Holdings Limited on the terms set out in this clause and Motel Holdings Limited not exercising its right to purchase.
- 3.2 The Encumbrancer shall immediately notify Motel Holdings Limited in writing of the receipt of the offer and deliver a copy of the offer to Motel Holdings Limited.
- 3.3 Motel Holdings Limited may within 21 days of receipt of a copy of the Offer give notice in writing to the Encumbrancer of its intention to purchase the Lot at the price and on the terms contained in the Offer. Motel Holdings Limited will be bound to complete the purchase.
- 3.4 Motel Holdings Limited's notice of its intention to purchase the Lot shall be otherwise on the terms of the then current edition of the Auckland District Law Society's agreement for sale and purchase of land.

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- 3.5

If Motel Holdings Limited does not give notice of its intention to purchase in terms of sub clause 3 herein then the Encumbrancer shall be free to accept the offer to purchase and complete the sale to the offeror but only at the same price and terms as contained in the Offer.
- 3.6

If the Encumbrancer alters the terms of the Offer in any way then the Encumbrancer shall not accept the varied offer without first giving notice of the varied offer to Motel Holdings Limited in terms of sub clause 2 whereupon all the terms of this clause shall apply to the varied offer.

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SCHEDULE 2

Affected instrument Identifier and type (if applicable)	All/part	Area/Description of part or stratum
751510	All	Principal Unit 1 and Accessory Unit 41 DP 499284
751511	All	Principal Unit 2 and Accessory Unit 42 DP 499284
751512	All	Principal Unit 3 and Accessory Unit 49 DP 499284
751513	All	Principal Unit 4 and Accessory Unit 48 DP 499284
751514	All	Principal Unit 6 DP 499284
751515	All	Principal Unit 7 DP 499284
763977	All	Principal Unit 8 and Accessory Unit 54 DP 499284
751517	All	Principal Unit 9 DP 499284
751518	All	Principal Unit 10 DP 499284
751519	All	Principal Unit 11 DP 499284
751520	All	Principal Unit 12 DP 499284
751521	All	Principal Unit 13 DP 499284
751522	All	Principal Unit 14 DP 499284
751523	All	Principal Unit 15 DP 499284
751524	All	Principal Unit 16 DP 499284
751525	All	Principal Unit 17 DP 499284
751526	All	Principal Unit 18 DP 499284
751527	All	Principal Unit 19 DP 499284
751528	All	Principal Unit 20 DP 499284
751529	All	Principal Unit 21 DP 499284
751530	All	Principal Unit 22 DP 499284
751531	All	Principal Unit 23 DP 499284
751532	All	Principal Unit 24 DP 499284
751533	All	Principal Unit 25 DP 499284
763978	All	Principal Unit 26 and Accessory Unit 40, 45-46, 52-53 DP 499284
751535	All	Principal Unit 29 and Accessory Unit 43 DP 499284 1/3 Share Accessory Unit 35 DP 499284
751536	All	Principal Unit 30 and Accessory Unit 44 DP 499284 1/3 Share Accessory Unit 35 DP 499284
751537	All	Principal Unit 31 and Accessory Unit 50 DP 499284 1/2 Share Accessory Unit 37 DP 499284
751538	All	Principal Unit 32 and Accessory Unit 51 DP 499284 1/2 Share Accessory Unit 37 DP 499284
759164	All	Future Development Unit 100 DP 499284 1/3 Share Accessory Unit 35 DP 499284

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SCHEDULE 3

Affected instrument Identifier and type (if applicable)	All/part	Area/Description of part or stratum
751533	All	Principal Unit 25 DP 499284
763978	All	Principal Unit 26 and Accessory Unit 40, 45-46, 52-53 DP 499284

SCHEDULE 4

Affected instrument Identifier and type (if applicable)	All/part	Area/Description of part or stratum
763978	All	Principal Unit 26 and Accessory Unit 40, 45-46, 52-53 DP 499284