



View Instrument Details

Instrument No 11052304.1
Status Registered
Date & Time Lodged 20 December 2018 11:38
Lodged By McArthur, Lorraine Louise
Instrument Type Covenant (All types except Land covenants)



Affected Records of Title	Land District
NA822/238	North Auckland

Annexure Schedule: Contains 7 Pages.

Signature

Signed by Paul Vincent Cameron Paino as Grantor/Grantee Representative on 17/01/2019 11:12 AM

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

Between

SARAH NICOLA GINELLA and PATRICIO NICOLAS MENDEZ VILLALBA

Covenantors

and

AUCKLAND COUNCIL

the Council

**COVENANT UNDER SECTION 108 RESOURCE
MANAGEMENT ACT 1991**

A handwritten signature in black ink, consisting of several loops and a vertical line, located in the bottom right corner of the page.

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IN THE MATTER of the Resource Management Act 1991

A N D

IN THE MATTER of the Land Transfer Act 2017

COVENANT UNDER SECTION 108 RESOURCE MANAGEMENT ACT 1991

BETWEEN SARAH NICOLA GINELLA and PATRICIO NICOLAS MENDEZ VILLALBA (the "Covenantors")

A N D AUCKLAND COUNCIL (the "Council")

BACKGROUND

- A. The Covenantors are registered as proprietor of the Land.
- B. Council has granted Consent to the Covenantors to proposed building additions, which require consent under the City Wide Natural Hazards Rule; under the Protected Natural Area Vegetation, Earthworks and Impermeable Surfaces Rules and under the Bush Living Environment Yard Rule on the Land.
- C. The Consent contained the condition for a covenant under section 108 of the Resource Management Act 1991 as stated in the Schedule.
- D. The Covenantors and the Council have agreed to enter into this covenant pursuant to Section 108 of the Resource Management Act 1991 in fulfilment of the condition of the Consent.

COVENANTS

1. INTERPRETATION

In this covenant, unless the context indicates otherwise:

1.1 Definitions

"Consent" means the land use consent numbered LUC-2014-573 granted on 6 October 2014;

"Council" means the Auckland Council and includes its predecessors and successors as territorial authority of the district where the Land is situated and includes its officers and agents;



"Covenantors" means the persons named as the Covenantors in this covenant and includes the persons for the time being registered as proprietors of the Land but only for as long as those persons are registered proprietors of the Land; and

"Land" means the Covenantors' land comprised in Computer Freehold Register 822/238 (North Auckland Registry).

- 1.2 **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning in the whole of this deed including the background.
- 1.3 **Headings:** section, clause and other headings are for ease of reference only and do not affect this deed's interpretation.
- 1.4 **Joint and Several Liability:** an obligation by two or more persons binds those persons jointly and severally.
- 1.5 **Negative Obligations:** any obligation not to do anything including an obligation not to suffer, permit or cause that thing to be done.
- 1.6 **Parties:** references to parties are references to parties to this deed.
- 1.7 **Persons:** references to persons including references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality.
- 1.8 **Plural and Singular:** words importing the singular number include the plural and vice versa.
- 1.9 **Schedules:** the schedules to this deed and the provisions and conditions contained in these schedules will have the same effect as if set out in the body of this deed.
- 1.10 **Sections, Clauses and Schedules:** references to sections, clauses and schedules are references to this deed's sections, clauses and schedules; and
- 1.11 **Statutes and Regulations:** references to any statutory provision include any statutory provision which amends or replaces it, and any subordinate legislation made under it.

2. EXPRESS COVENANTS

- 2.1 The Covenantors covenant with the Council to perform the obligations as set out in the Schedule hereto and imposed pursuant to section 108 of the Resource Management Act 1991 and the Consent.
- 2.2 The Covenantors acknowledge that this covenant shall bind and run with the Land in accordance with section 109 of the Resource Management Act.
- 2.3 The Covenantors covenant with the Council that the registration of this covenant is intended to confer a benefit upon the Council for the purposes of section 4 of the Contracts (Privity) Act 1982, which benefit shall be enforceable at the suit of the Council as to each and any person from time to time registered as proprietor of the Land or any part thereof.

Handwritten signatures and initials in the bottom right corner of the page. There are two distinct signatures, one above the other, and some initials below them.

3. CHANGE IN USE

- 3.1 Any change in use of the Land will require assessment in terms of the provisions of the District Plan in force for the time being.
- 3.2 The Covenantors may apply to the Council for a release of this covenant where the Covenantors are able to demonstrate to the Council that the condition of the Consent secured by the covenant has become obsolete and in such circumstances the Council shall, at the Covenantors' cost, provide the Covenantors with a release of this covenant.

4. COSTS

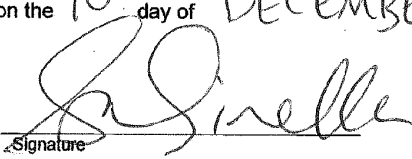
- 4.1 The Covenantors shall pay the costs of preparation and registration of this covenant and any other costs incurred by the Council in relation to this covenant.

5. POWERS NOT AFFECTED

- 5.1 Nothing in this deed is to be treated as limiting any other rights or powers which the Council may have under statute, bylaw or regulation except as expressly provided in this deed.
- 5.2 The Covenantors' liability under this deed will not be affected by any delay, extension of time, forbearance or waiver by the Council, or by failure or neglect by the Council to enforce any of the covenants.

IN WITNESS of this covenant has been executed on the 10 day of DECEMBER 2018

EXECUTED as a DEED by
SARAH NICOLA GINELLA
in the presence of


Signature


Witness signature

GASTON COMA
Full name

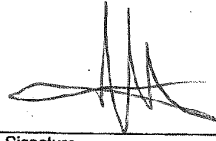
2 MINNEHABA AVE
Address

REAL ESTATE SALESPERSON
Occupation

Note: The signature must be witnessed by an independent person



EXECUTED as a DEED by)
PATRICIO NICOLAS MENDEZ)
VILLALBA)
in the presence of)



Signature



Witness signature

GASTON COMA

Full name

2 MINNEHABA AVE

Address

REAL ESTATE SALESPERSON

Occupation

Note: The signature must be witnessed by an independent person



SCHEDULE

The Covenantors covenant with the Council on an ongoing basis that:

1. In order to mitigate against adverse effects on the environment, increased downstream flooding, increased stream channel erosion, or adverse effects on public infrastructure systems they will construct an engineered dispersal device (the "Device") on the Land.
2. Without limiting the above, the Covenantors will meet the following specific requirements:
 - (a) Maintain stormwater runoff flows, volumes, and timing to permitted levels (maximum 10% impermeable area) and discharge stormwater through the Device in accordance with the "On-site stormwater management for proposed residential addition at 58 Kauri Point Rd, Laingholm" report prepared by Soil & Rock Consultants Limited dated 11 November 2013.
 - (b) The discharge point is to mimic natural runoff patterns, and is not to discharge directly to a watercourse, open drain or piped system.
 - (c) The Device must be located in such a way that it will not interfere with bush, ground cover vegetation and tree roots; nor reduce the structural capacity of the existing barrier pile wall.
 - (d) Operate, monitor and maintain the Device in accordance with the conditions below:
 - (i) Carry out regular maintenance (no less than once every two years) of the Device to ensure efficient operation.
 - (ii) Following receipt of written notice by the Council, allow the Council's officers, employees, agents or contractors to enter the Land to inspect or test the Device and to inspect the Covenantors' records in relation to the operation, monitoring and maintenance of the Device.
 - (iii) Carry out any actions or works in relation to the operation, monitoring and maintenance of the Device that the Council instructs by notice in writing. If the Covenantors fail to carry out those actions or works within 7 working days of receiving the Council's notice, the Covenantors will allow the Council to carry out said work itself and enter the Land to execute the work. The Council may recover all costs of carrying out the work from the Covenantors.
 - (iv) The Covenantors must not modify or remove the Device without express written permission of the Council.

