

CSS5416.6 ENC

MEMORANDUM OF ENCUMBRANCE

WHEREAS

- I SKYBIRD CORPORATION LIMITED at Auckland (hereinafter referred to as "the Owner") is registered as proprietor of an estate in fee simple in all that parcel of land containing 3.5576 hectares more or less being part Lot 2 Deposited Plan 134922 being part Allotment 14 Parish of Waikomiti and being the land comprised and described in Certificate of Title Volume 86D Folio 565 North Auckland Land Registry
- II THE Owner has requested the WAITAKERE CITY COUNCIL (hereinafter called "the Council") pursuant to the provisions of the Local Government Act 1974 to consent to a plan of subdivision of the above described land in terms of a plan lodged for deposit under No. 158119
- 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 land described in the Schedule hereto for the benefit of the Council for a term of 999 years commencing from 1st day of December 1993 with an annual rent charge of TEN DOLLARS (\$10.00) to be paid on the 1st day of December each year if demanded by that date.

2. THE Owner for itself and its successors in Title covenants with the Council that in respect of the land described in the Schedule hereto:

- (a) Not to construct place or permit to remain upon any of the land described in the First Schedule hereto any residential buildings unless the floor level of such buildings is higher than the level specified in the First Schedule in respect of such lot, such minimum floor level being based on a 1 metre

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PH

freeboard above the predicted 100 year flood levels in terms of Department of Survey and Land Information datum.

- (b) Not to erect place or permit to remain any solid walls fences or other impediments to the natural flow of water over those parts of the land described in the Second Schedule hereto shown marked "E", "F", "G", "H" and "I" on Land Transfer Plan 153119.

3. THE Owner shall pay the costs of preparation, stamping and registration and enforcement of this encumbrance and any other costs incurred directly or indirectly by the Council in relation to this Encumbrance or its enforcement.

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 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.

5. IF during the twelve (12) months preceding the first day of December 1994 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 acknowledgment to that effect.

6. THE covenants contained in Clause 2 hereof shall be enforceable only against the registered proprietors for the time being of the land described in the Schedule hereto and not otherwise against the Owner or its successors in title.

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7. THE provisions of this encumbrance and the Council's rights and remedies hereunder are in addition to and shall in no way derogate from the Council's rights and duties in respect of the land in the Schedule hereto or of any building erected thereon.

IN WITNESS WHEREOF these presents have been executed the *23rd* day of *November* 1993

FIRST SCHEDULE

An estate in fee simple in all those parcels of land situated in the North Auckland Land Registry District described as follows:-

Area	Lot No.	D.P. No.	Title Reference	Minimum Floor Level
475m ²	1	158119	94D/677	R.L.31.50
499m ²	3	158119	94D/679	R.L.31.30
481m ²	4	158119	94D/680	R.L.31.10
539m ²	5	158119	94D/681	R.L.30.80
561m ²	48	158119	94D/699	R.L.33.00

SECOND SCHEDULE

An estate in fee simple in all those parcels of land situated in the North Auckland Land Registry District described as follows:-

Area	Lot No.	D.P. No.	Title Reference
498m ²	10	158119	94D/686
455m ²	11	158119	94D/687
461m ²	17	158119	94D/693
451m ²	18	158119	94D/694
626m ²	19	158119	94D/695

THE COMMON SEAL of SKYBIRD CORPORATION LIMITED was affixed in the presence of:-



MEMORANDUM OF ENCUMBRANCE

SKYBIRD CORPORATION LIMITED

Owner

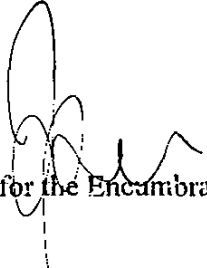
WAITAKERE CITY COUNCIL

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 of the Land Transfer Act
1952.



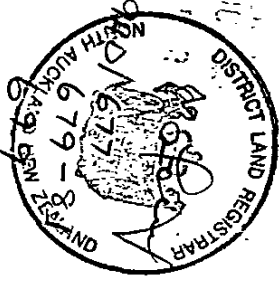
Solicitor for the Encumbrancer

CORBAN REVELL
SOLICITORS
PENDERSON

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FILED
LAND REGISTRY
NORTH AUCKLAND

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