

View Instrument Details



Instrument No 12151178.6
Status Registered
Date & Time Lodged 08 September 2021 16:21
Lodged By Jacobson, Peter Bruce
Instrument Type Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



Affected Records of Title	Land District
1005304	North Auckland
994505	North Auckland
994506	North Auckland
994507	North Auckland
994508	North Auckland
994509	North Auckland
994510	North Auckland
994511	North Auckland
994512	North Auckland
994513	North Auckland
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994522	North Auckland
994523	North Auckland
994524	North Auckland
994525	North Auckland
994526	North Auckland
994527	North Auckland
994528	North Auckland
994529	North Auckland
994741	North Auckland

Annexure Schedule Contains 6 Pages.

Covenantor Certifications

I certify that I have the authority to act for the Covenantor 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 Peter Bruce Jacobson as Covenantor Representative on 08/09/2021 02:22 PM

Covenantee Certifications

I certify that I have the authority to act for the Covenantee 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 Peter Bruce Jacobson as Covenantee Representative on 08/09/2021 02:22 PM

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

Approved for ADLS by Registrar-General of Land under No. 2018/6263
COVENANT INSTRUMENT TO NOTE LAND COVENANT
 Sections 116(1)(a) & (b) Land Transfer Act 2017

**Covenantor**Surname(s) must be underlined or in CAPITALS.**ROCK SOLID HOLDINGS LIMITED****Covenantee**Surname(s) must be underlined or in CAPITALS.**ROCK SOLID HOLDINGS LIMITED****Grant of Covenant**

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covenantee** (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Schedule A

Continue in additional Annexure Schedule, if required

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land covenant and fencing covenant	DP 561698	Lots 50 to 74 (inclusive) RT 994505 to RT 994529 (inclusive)	Lots 50 to 74 (inclusive) RT 994505 to RT 994529 (inclusive) Lot 100 RT 994741 Lot 101 RT 1005304

Covenant rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in:

[Memorandum number _____, registered under section 209 of the Land Transfer Act 2017.]

[Annexure Schedule 2 _____].

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule 2

Insert type of instrument
"Mortgage", "Transfer", "Lease" etc

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DEFINITIONS

"Developer" means Rock Solid Holdings Limited and shall include any delegate or assign of the Developer.

"Burdened Land" (used interchangeably with Burdened Lot) means the lots set out in Schedule A.

"Benefited Land" (used interchangeably with Benefited Lot) means the lots set out in Schedule A.

"Covenantee" includes the Covenantee's successors in title of the Benefited Land and includes a reference to the Owner or Occupier for the time being of the Benefited Land.

"Covenantor" includes the Covenantor's successors in title of the Burdened Land and includes a reference to the Owner or Occupier for the time being of the Burdened Lots.

"Owners or Occupiers" in relation to any covenanting lot means the person or persons for the time being registered as the Owner of the fee simple estate in the Burdened Lots provided that in any case where a person is in actual occupation of a Burdened Lot under a binding agreement for sale and purchase, unless the context otherwise requires, the term "Owner or Occupier" means that person.

"Lodge any Submission" means and includes personally or through any agent, to directly or indirectly lodge or support in any way any objection or submission to a Planning Proposal and includes taking any part in a planning hearing, appeal or reference arising in respect of a Planning Proposal whether as a party or otherwise.

"Planning Proposal" means any or all of the following possibilities:

- (a) an application for any further subdivision of title 372886;
- (b) any development of land owned by the Developer, which is incorporated in Record of Title 372866 in a comprehensive subdivision plan or similar aggregation of land for consenting purposes, including any extension to roading, power, telecommunications, stormwater, water supply sewage disposal infrastructure and registration of future easements (including any easement in favour of the Walking Access Commission to enable public access in terms of the Walking Access Act 2008).

INTRODUCTION

- A. The Covenantor is registered as proprietor of the estates in fee simple contained in the Burdened Land which comprise the subdivision development ("Subdivision").
- B. The Burdened Land is to be developed as part of the Subdivision which is intended to establish a modern, high quality and well-designed development with the intention that each of the Burdened Lots shall be subject to and have the benefit of a scheme of development. It is desirable that supervision and control be exercised by the Developer for the protection and in the interest of all purchasers of the Burdened Lots in relation to the nature and type of construction to be erected in the Subdivision.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

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- C. It is the Covenantor's intention to create for the benefit of the land described in Schedule A the land covenants set out in Part A of Annexure Schedule 2 ("**Covenants**") over the Burdened Lots to the intent that the Burdened Lots shall be bound by the Covenants and that the Developer may enforce the observance of the Covenants against the Covenantors and/or against the Owners or Occupiers for the time being of the Burdened Lots, in equity or otherwise.
- D. It is the Covenantor's intention to create the fencing covenant set out in Part B of Annexure Schedule 2.
- E. It is the Developer's intention to further subdivide the land in Record of Title 372886 and to create the covenant in Part C of Annexure Schedule 2.

OPERATIVE PART

Current Subdivision

- A. The Covenantor, with the intention to bind itself and future proprietors of the Burdened Lots for the benefit of the Covenantee and future proprietors of the Benefited Lots, covenants and agrees that the Covenantor shall always observe and perform the Covenants in respect of the Burdened Lots to the intent that each of the Covenants will be forever appurtenant to each of the Benefited Lots.
- B. The Covenantor and its successors in title will only be liable for breaches of the Covenants which occur while they are registered as the Owner or Occupier of the Burdened Lots in respect of which a breach has occurred, and as such the Covenantor and its successors in title hereby limit their respective liability.
- C. The Developer shall neither be required nor liable to enforce nor be answerable to the Covenantee for a breach of any of the Covenants.
- D. The Covenantor shall indemnify the Covenantee against all claims, costs, suits and demands arising in respect of any breach by the Covenantor of the Covenants.
- E. If the Covenantor is in breach of any of the Covenants, without prejudice to any other liability which the Covenantor may have to any person having the benefit of the Covenants, the Covenantor shall, upon written demand from the Covenantee:
 - (i) pay to the Covenantee the sum of \$10,000.00 or a sum equal to 10% of the unimproved value of the Burdened Lot in respect of which there has been a breach(s) for the time being whichever sum is the larger, together with interest at 10% per annum (calculated on a daily basis) for such a period as the breach(s) shall continue; and
 - (ii) remove or cause to be removed from the Burdened Lots any structure erected or placed on the Burdened Lots in breach of the foregoing covenants; and
 - (iii) replace any building materials used or permitted to be used in breach or non-observance of the Covenants.

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Annexure Schedule 2 cont.

Insert type of instrument
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Further Development

- F. The Covenantor covenants as follows for the benefit of the Covenantee and the Covenantee's successors in title to each of the lots comprising the Benefited Lots.
- G. The Covenantor hereby covenants and agrees that the Covenants run with the Burdened Lots for the benefit of the Benefited Lots.

PART A – Building Covenant

The Covenantor agrees and covenants with the Developer for the benefit of the Covenantee and so as to bind the Burdened Lots for the benefit of the Benefited Lots:

1. Not to commence any construction or development on any part of a Burdened Lot without first having obtained the written consent of the Developer to the plans, specifications and exterior design and appearance of the Covenantor's proposed Dwelling (as defined in Part A number 2 below). The application for the Developer's written consent shall include full details of all exterior colour schemes and finishes and details of fencing and front yard landscaping. Such consent shall be entirely at the discretion of the Developer, who may waive any of the conditions in Part A numbered 4 to 16 inclusive herein but shall not be withheld in the case of plans which do not detract from the normal standard of housing in the Subdivision and are in keeping with the general tone and intent of the Covenants. Such consent, if given, shall be given within ten (10) working days of the submission to the Developer of such plans and specifications. Once such approval is obtained, the Covenantor shall not make any changes to the plans and specifications or exterior design and appearance of the Covenantor's proposed Dwelling. The Covenantor shall submit the plans as approved to the Territorial Authority having jurisdiction for a building consent and shall not alter or make any changes to the plans and specifications or the exterior design or appearance of the proposed Dwelling whether due to requirements of the Territorial Authority or otherwise without first resubmitting the modified or changed plans and specifications to the Developer for approval as above.
2. Not to erect or place to be erected or placed on any of the Burdened Lots any dwelling except a single private dwelling house ("Dwelling").
3. Except with the Developer's written permission, not to apply for any resource or building consent for, erect or permit to be erected, or alter any building or other improvements (including fencing and landscaping) on any Burdened Lot until the plans and specifications (including details of materials, external finish and colour scheme) of such buildings and improvements are approved in writing by the Developer. The Developer shall not withhold approval provided that the Developer in its sole discretion is satisfied that the proposed building or improvements will not detract from the overall quality and appearance of the Subdivision. Once such approval is obtained, the Covenantor shall not make any changes to the plans and specifications or exterior design and appearance of the Covenantors proposed Dwelling. The Covenantor shall submit the plans as approved to the Territorial Authority having jurisdiction for a building consent and shall not alter or make any changes to the plans and specifications or the exterior design or appearance of the proposed Dwelling whether due to requirements of the Territorial Authority or otherwise without first resubmitting the modified or changed plans and specifications to the Developer for approval as above.

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Part A Building Covenant continued:

- 4. To complete any building (that is ready for occupation including driveways, paths, fences, rotary hoeing and grassing) within 12 months of commencing construction.
- 5. Not to use secondhand materials in any form whatsoever without the prior approval of the Developer, such approval or otherwise to be entirely at the Developer's discretion.
- 6. To satisfy the Developer that the minimum gross floor area (excluding garage) for the Dwelling will be at least 100 square meters.
- 7. Not to use flat harditex, plywood sheeting or flat metal sheeting as external wall cladding except for soffits, basements, and/or in association with texture or battened finishes.
- 8. To ensure that all exterior sheathing and finishing including exterior painting has been completed prior to occupation of the Dwelling.
- 9. To construct all roofs of longrun colour steel or concrete or metal tiles or other tiles approved by the Developer.
- 10. Not to erect or permit the erection of any fence wholly or partly of sheet or panel steel, untextured flat fibrolite, harditex, plywood or corrugated iron.
- 11. Prior to completion of construction of the Dwelling, to complete all vehicle crossings and driveways to the Territorial Authority standards and specifications and to a standard sympathetic with the Subdivision. The driveways shall be a minimum of 20 square metres in area laid from the boundary adjoining a road and to lay a pathway to the front door of each Dwelling. The driveway and pathway shall utilise permanent materials such as concrete, concrete block, block paving or chip sealing.
- 12. To fully maintain the gardens and lawns and not to allow rubbish to accumulate on the Burdened Lots or for the Burdened Lots to become unsightly.
- 13. Not to allow onto the Burdened Lots thereof any vehicle, equipment or machinery which is unsightly or a nuisance to the Owners or Occupiers of the Benefited Lots.
- 14. Not to erect or place or permit or cause to be erected or placed on the Burdened Lots any caravan, hut or shed to be used as a Dwelling or temporary Dwelling without the prior written permission of the Developer, nor any caravan which is not roadworthy nor any boat for which the means of conveyance is not roadworthy.
- 15. Not to use or permit the Burdened Lots to be used for any trading or commercial purposes without the Developer's prior written approval.
- 16. Not to remove any soil from the Burdened Lots except where necessary for purposes of construction of a Dwelling thereon.

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PART B – Fencing Covenant

- 1. Neither the Covenantor nor the Developer shall be liable to contribute towards the costs of or assist in the erection or maintenance of any boundary or dividing fence between any Burdened Lot and any adjoining land now owned or occupied by the Covenantee. This fencing covenant is intended for the benefit of the Developer only and shall not enure for the benefit of any subsequent Covenantee.

PART C – Further Development

Prohibition on Objecting to Further Development

- 1. A Covenantor must not at any time Lodge any Submission against any Planning Proposal by the Developer.
- 2. All Covenantors are deemed to have given their written approval to any Planning Proposal referred to in clause 1 of this Part C for the purposes of the Resource Management Act 1991.
- 3. It is acknowledged that the Developer shall be required to consult in good faith with all of the Covenantors in respect of any Planning Proposal or any future development contemplated by clause 1 of this Part C, however any objections raised by a Covenantor during the said consultation process shall not prevail over clauses 1 and 2 of this Part C.

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