

# View Instrument Details



**Instrument No** 11439837.7  
**Status** Registered  
**Date & Time Lodged** 24 June 2019 13:46  
**Lodged By** Jones, Simon John Oldbury  
**Instrument Type** Land Covenant under s116(1)(a) or (b) Land Transfer Act 2017



| Affected Records of Title | Land District  |
|---------------------------|----------------|
| 884223                    | North Auckland |
| 884224                    | North Auckland |
| 884225                    | North Auckland |
| 884226                    | North Auckland |
| 884227                    | North Auckland |
| 884229                    | North Auckland |
| 884230                    | North Auckland |

**Annexure Schedule:** Contains 9 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 Simon John Oldbury Jones as Covenantor Representative on 19/06/2019 08:58 AM

## 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 Simon John Oldbury Jones as Covenantee Representative on 19/06/2019 08:58 AM

\*\*\* 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.***CHRISTOPHER GRANT NATHAN, MARGARIT FAITH NATHAN and REOTAHITI LIMITED****Covenantee***Surname(s) must be underlined or in CAPITALS.***CHRISTOPHER GRANT NATHAN, MARGARIT FAITH NATHAN and REOTAHITI 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                             |
|-----------------------|----------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------|
| <b>Land Covenants</b> | <b>Lots 1, 2, 3, 4, 5, 8 and 9 DP 534968</b> | <b>Part 884223 to 884227 (both inclusive) and Part 884229 and 884230</b> | <b>Part 884223 to 884227 (both inclusive) and Part 884229 and 884230</b> |

**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 **1** ].

## Annexure Schedule 1

### Land Covenants

The Covenantor as registered proprietor of the land contained in Identifiers NA63D/666 and NA137A/543 (North Auckland) (**Land**) has subdivided the Land into residential lots in the manner shown and defined on Deposited Plan 534968.

It is the Covenantor's intention to create, for the benefit of the Benefited Land, the land covenants set out in Schedule A (**Covenants**) over the Burdened Land TO THE INTENT that:

- (a) The Burdened Land will be bound by the stipulations and restrictions set out in the Covenants; and
- (b) The Covenantee and the owners and occupiers for the time being of the Benefited Land may enforce the observance of the Covenants against the owners for the time being of the Burdened Land,

so as to bind the Burdened Land, and for the benefit of the Covenantee and the respective owners of the Benefited Land, the Covenantor DOES HEREBY COVENANT AND AGREE in the manner set out in Schedule A so that the Covenants run with the Burdened Land for the benefit of the Covenantee and the respective owners of the Benefited Land PROVIDED HOWEVER that:

- (a) The Covenantee will not be required or obliged to enforce all or any of the stipulations and restrictions contained in the Covenants; and
- (b) The Covenantor will not be liable to the Covenantee for any breach of any of the Covenants by any of the other registered proprietors of the Burdened Land; and
- (c) The Covenantor will as regards the stipulations and restrictions contained in the Covenants be liable only in respect of breaches which occur while the Covenantor is registered proprietor of any of the Burdened Land in respect of which any breach occurs.

### Definitions and Interpretation

1. In this instrument, unless the context requires otherwise:

**Access Way** means any land in the Development which is currently or subsequently used as a legal access way for one of more of the Burdened Land;

**Benefited Land** means any one of lots 1 to 5 (inclusive) and 8 and 9 on Deposited Plan 534968 or any of them, and any lots into which those lots are further subdivided;

**Berm** means the area between the boundary of the Covenanting Lot and the curb of the adjacent road or Access Way;

**Boarding house** means a dwelling in which board or lodging is provided for reward or payment for three or more boarders or lodgers;

**Burdened Land** means any one of lots 1 to 5 (inclusive) and 8 and 9 on Deposited Plan 534968 or any of them, and any lots into which those lots are further subdivided;

**Covenantee** means the registered proprietor of the Benefited Land;

**Covenantor** means the registered proprietor of the Burdened Land and includes the agents, employees, contractors, tenants, licensees and other invitees of the covenantor;

**Developer** means Reotahiti Limited (Company No. 6273151) and Christopher Grant Nathan and Margarit Faith Nathan or their nominee;

**Development** means the land formerly comprised in certificates of title NA63D/666 and NA137A/543 (North Auckland) and includes the Land;

**Erect** means place, build, erect, install, attach, situate or construct or permit to be placed, built, erected, installed, attached, situated or constructed;

**Finished Ground Level** means the ground level of the Covenanting Lot existing at the time the section 224(c) certificate is issued in respect of the subdivision of which the Covenanting Lot forms part;

**Front Courtyard** means that part of the Covenanting Lot enclosed within a line running from side boundary to side boundary beginning at the front side corners of the residential dwelling Erected on that Covenanting Lot and extending forward of the residential dwelling to either:

- (a) the front boundary of the Covenanting Lot with the road where the Covenanting Lot directly adjoins the road; or
- (b) the front boundary of the Covenanting Lot with an Access Way if the Covenanting Lot takes its access from the road by an Access Way;

**Improvements** means any residential dwelling and associated buildings or structures, fencing and landscaping to be Erected or incorporated on any of the Burdened Land;

**Pre-fabricated Housing** means any Improvements comprising a dwelling that includes one or more of the following attributes:

- (a) Is factory-built and transported in one or more sections to the Covenanting Lot;
- (b) Is of a modular design (being of a sectional pre-fabricated nature and consisting of two or more sections);
- (c) Is a kitset home;
- (d) Has a floor area (excluding garages and decks) of less than 160m<sup>2</sup>.

**Relevant Authority** means any corporation, including any government, local or regional territorial authority, statutory or non-statutory authority or body having jurisdiction over the Burdened Land or the Land or any part thereof: and

**Satellite Dish** means any satellite dish or other communication dish, device, antenna or aerial.

**LAND COVENANTS TO ENURE**

2. The Covenantor for itself and its successors in title covenants and agrees with the Covenantee for the benefit of each and all of the Benefited Land and also separately with each and all of the registered proprietors of the Benefited Land to always observe and perform all of the agreements, stipulations and restrictions set out in the Covenants to the intent that they shall enure to benefit the Benefited Land until the Covenants lapse in accordance with clause 37.

**COVENANTOR'S COVENANTS**

**Improvements to Comply**

3. The Covenantor must not Erect any Improvements on a Covenanting Lot without first obtaining all consents and permits required under any relevant legislation for such Improvements from the Relevant Authority.
4. The Covenantor must comply and satisfy all terms and conditions in any such consents and permits.

**Timely completion of Improvements**

5. The Covenantor must ensure that construction of any Improvement (not including the original dwelling) is completed (including all exterior coatings) within 9 calendar months from the date on which construction commences.

**Residential use**

6. The Covenantor must not use any part of the Burdened Land, or permit the same to be used, for any trading or commercial purpose, unless that purpose is a permitted activity under the relevant district plan and the Covenantor complies in all respects with the requirements of the Relevant Authority.
7. The Covenantor must not use any part of the Burdened Land, or permit the same to be used, as a Boarding house.
8. The Covenantor must not Erect a granny flat on the Covenanting Lot unless such granny flat is:
  - 8.1 a one bedroom flat;
  - 8.2 Erected within the residential dwelling; and
  - 8.3 Complies with the requirements of the Relevant Authority.
9. The Covenantor must not without the prior written consent of the Developer (which consent may be withheld at the Developer's sole discretion) Erect any Pre-fabricated Housing on the Covenanting Lot.

**No temporary or ancillary buildings**

10. The Covenantor must not Erect or place on any Covenanting Lot any caravan, mobile home or other temporary accommodation, hut or shed for permanent or temporary use of any kind except as follows:
  - 10.1 the Covenantor may Erect a builder's shed or other utility shed:
    - (i) that is required during the course of construction of the residential dwelling on the Covenanting Lot; and
    - (ii) will be removed from the Covenanting Lot before any person takes occupation of the residential dwelling on that Covenanting Lot, and
  - 10.2 the Covenantor may Erect a shed on the Covenanting Lot, provided that such shed:
    - (i) must not be Erected in the Front Courtyard of the Covenanting Lot;
    - (ii) must not be visible from the adjacent roadside or Access Way;
    - (iii) must be constructed in new permanent materials, appropriately painted, or be a new proprietary brand, precoated with a factory colour finish that will not detract from the visual amenity of the development on the Land; and
    - (iv) must not be more than one storey in height or exceed 150m<sup>2</sup> in floor area,
  - 10.3 the Covenantor may park a caravan or mobile home on the Covenanting Lot provided that any such caravan or mobile home parked on the Covenanting Lot is not in public view for more than 15 consecutive days; and
  - 10.4 the Covenantor may store a caravan or mobile home on the Covenanting Lot provided that any such caravan or mobile home stored on the Covenanting Lot is screened from public view behind the building setback line by fencing, gates, or dense planting.

**Roofing**

11. The Covenantor must not Erect a roof on any Covenanting Lot using unpainted galvanised iron or Zincolume® iron finishes, white roofs, or any other similar material which could potentially contaminate the stormwater runoff from the Covenanting Lot.

**Maintenance**

*Buildings*

12. The Covenantor must keep and maintain the exterior appearance of any Improvement on a Covenanting Lot to a high standard of care and maintenance and in particular must:
  - 12.1 keep and maintain the exterior of any improvements situated on the Covenanting Lot in good and substantially tenantable repair and condition; and

- 12.2 regularly clean and paint the exterior of any Improvements as and when required to ensure the continued high standards of visual amenity within the development on the Land.

*Landscaping*

13. The Covenantor must keep the Covenanting Lot and the Berm in a neat, tidy and well-maintained condition and free of weeds and rubbish and will not permit the growth of grass or other vegetation on the Lot to the stage where it becomes long or unsightly. The Covenantor must not deposit, hold, store or leave on the Covenanting Lot any excavation material, spoil, fallen trees, rubbish, garbage, builders' waste or other substances whatsoever.
14. Should the Covenantee notify the Covenantor that rubbish removal, slashing, maintaining or clearing of the Covenanting Lot or Berm is necessary to maintain the tidy presentation of the development on the Land, the Covenantor must carry out the works within 10 working days. If the Covenantor fails to comply with the request to remove rubbish, slash, maintain or clear, the Covenantee may employ a contractor to carry out the rubbish removal, slashing, maintaining or clearing and the Covenantor must pay the Covenantee for the cost incurred.

**Fencing**

15. Where any fence or boundary wall has been defaced, damaged, destroyed or removed, the Covenantor must, within 15 working days, arrange for such fence or boundary wall to be repaired, restored or replaced (as the case may be) using the same or equivalent materials as the original fence or boundary wall so that the repaired, restored or replaced fencing or boundary wall is substantially the same in appearance, location and dimensions as the original fencing or boundary wall.

**Improvements**

16. Except as otherwise provided in these Covenants, the Covenantor must not Erect any Improvement (other than landscaping and fencing) in the Front Courtyard of the Covenanting Lot.
17. Notwithstanding the terms or provisions of the Fencing Act 1978, the Covenantor must not Erect any fence or fences on the Covenanting Lot nor permit any hedge or trees to be planted or grown as a living fence of any kind unless such fences comply in full with the following criteria:
- 17.1 no fence will be Erected in second-hand or demolition materials;
- 17.2 no side boundary fence or rear boundary fence will be Erected that is greater than 1.8 metres in height measured vertically from the Finished Ground Level at the relevant point on the Covenanting Lot where the fence is Erected. For the avoidance of doubt, where fencing of side boundaries is concerned between two adjoining Burdened Land, the side boundary fences may project to the front of that residential dwelling that is nearest to the road frontage of the Covenanting Lot.
18. The Covenantor must not plant any shrubs, trees or other vegetation on the Front Courtyard of the Covenanting Lot of a height greater than 5 metres above the Finished Ground Level at the relevant point on the Covenanting Lot where such shrub, tree or

other vegetation is planted, or permit any such shrub, tree or other vegetation planted by them on the Covenanting Lot to grow to a height greater than 5 metres above the Finished Ground Level at the relevant point on the Covenanting Lot where such shrubs, trees or other vegetation are planted. For the avoidance of doubt, this provision shall not apply in respect of any of the Pecan trees situated on the Land at the date of registration of these Covenants.

**Appurtenant external appliances**

19. The Covenantor must not Erect on any Covenanting Lot or any dwelling Erected thereon, any air-conditioning unit or similar appliance used to monitor or control the temperature, humidity, or climate within a dwelling, that would be visible from any adjacent Benefiting Lot, road, right of way, Access Way, or pathway.

**Washing Lines**

20. The Covenantor must ensure that any washing line Erected on the Covenanting Lot is not visible from any adjacent road or any Access Way.

**Satellite dishes and solar panels**

21. The Covenantor must not Erect a Satellite Dish in the Front Courtyard of the Covenanting Lot.
22. The Covenantor must not Erect any solar panels or pool heating on the roof of the dwelling unless such solar panels and/or pool heating is integrated with the roof design and colour and not be highly visible from the adjacent road.

**Immobile vehicles and rubbish**

23. The Covenantor will not:
- 23.1 bring onto or allow to remain on the Covenanting Lot or the Development any vehicle or rubbish (inorganic or organic) which is unsightly, or which is likely to become a nuisance to the registered proprietors of the Benefited Land; nor
- 23.2 allow to remain on the Covenanting Lot or the Development for more than 7 days any equipment or machinery which is unsightly, or which is likely to become a nuisance to the registered proprietors of the Benefited Land; nor
- 23.3 place or leave any immobile or broken-down vehicle on any road, road reserve or Access Way in the Development.

**Carparking**

24. The Covenantor must not park or permit guests, residents, invitees or contractors to park any vehicle on any Access Way, or Front Courtyard within the Development apart from on a properly constructed driveway or parking bay.

**Signage**

25. The Covenantor must not Erect on the Covenanting Lot:
- 25.1 any signage which exceeds 1.2m<sup>2</sup> in area:



- 25.2 more than one "For Sale" sign at any one time.
- 26. The Covenantor must ensure that any signage Erected on the Covenanting Lot:
  - 26.1 will be of high-quality sign writing, and
  - 26.2 must not be handwritten.

**Animals**

- 27. The Covenantor must not bring onto, raise, breed or keep any animal, livestock or poultry on the Covenanting Lot without the prior approval of the Relevant Authority, other than a domestic cat or dog registered with the Relevant Authority.

**BREACH OF COVENANTS**

- 28. If the Covenantee considers that there is any breach or non-observance by the Covenantor of any one or more of the Covenants, the Covenantee will give written notice of such breach to the Covenantor. Without prejudice to any other liability which the Covenantor may have to the Covenantee and any persons having the benefit of the Covenants, the Covenantor will upon written demand being made by the Covenantee:
  - 28.1 within 7 working days (or such shorter period as is provided elsewhere in this Covenant or by the Council or such other relevant regulatory authority) of receipt of notice in writing from the Covenantee, pay to the Covenantee as liquidated damages the sum of \$100 for each day that the breach continues; and/or
  - 28.2 within 7 working days (or such shorter period as is provided elsewhere in this Covenant or by the Council or such other relevant regulatory authority) of receipt of notice in writing from the Covenantee, remedy any breach if capable of remedy on terms and conditions imposed by the Covenantee which may involve being required to remove any structure or building material which breaches the terms of the Covenants; and/or
  - 28.3 allow the Covenantee the right to lodge a caveat against the Covenanting Lot in breach to protect the sum of any unpaid debt owing to the Covenantee on the basis that any unpaid debt shall be deemed to constitute a contractual charge over the Covenanting Lot owing to the Covenantee until such time that any debt is fully discharged or otherwise satisfied.
- 29. If the Covenantor and/or the tenant of the Covenantor fails to remedy the breach within a reasonable time of receipt of such notice, the Covenantee may take whatever legal action it or they consider necessary to remedy the breach.
- 30. All expenses and costs incurred in enforcing the Covenants will constitute a debt due that shall be a charge against the Covenanting Lot and shall be recoverable as liquidated damages.

**Dispute Resolution**

- 31. If a dispute arises in connection with these Covenants, the parties will endeavour to settle the dispute by mediation before resorting to arbitration. Either party may initiate mediation by giving written notice to the other party. The mediator will be agreed on by

the parties, but if the parties cannot agree on a mediator within 7 working days after the mediation has been initiated, then the mediator will be appointed by the President for the time being of the Auckland branch of the New Zealand Law Society whose decision as to the appointment of the mediator will be final and binding on the parties.

32. If the dispute has not been settled within 14 working days after the appointment of the mediator, or within any longer period agreed on in writing by the parties, then the parties agree that resolution of the dispute will be determined by arbitration under the Arbitration Act 1996. Either party may commence the arbitration by giving a written notice to the other stating the subject matter and details of the dispute and the party's requirement to have the dispute determined by arbitration.
33. The arbitration will be conducted by a single arbitrator. If the parties cannot agree upon a single arbitrator within 14 working days of a party receiving a notice under this clause, then the arbitrator will be appointed by the President for the time being of the Auckland branch of the New Zealand Law Society and his/her decision will be final and binding on the parties as to the appointment of the arbitrator.
34. The parties agree that the arbitrator's award will be final and binding on them.

#### **Severability**

35. If any part of this instrument is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this instrument.

#### **Expiry of Covenants**

37. The Covenants contained in this instrument shall enure for the benefit of the Benefited Land up to and including the date fifteen (15) years after the date on which the covenants are registered with Land Information New Zealand.