

MEMORANDUM OF ENCUMBRANCE

8 WARNER PARK AVENUE, LAINGHOLM, Waitakere City

PARTIES: DAVID BARTON and TRACEY ALISON BEDFORD ("the Owner")

WAITAKERE CITY COUNCIL ("the Council")

BACKGROUND

- A. The Owner is registered as proprietor of an estate in fee simple in all that land containing 1057 square metres or thereabouts being Lot 124 on DP 19099 being all the land in Identifier NA988/218 ("the Land").
- B. The Owner has requested the Council to consent to the construction of a retaining wall ("the Works") on that part of Council owned land being Lot 123 DP 19099 (6 WARNER PARK AVENUE, LAINGHOLM) identified by the plan in the First Schedule ("the Site").
- C. Council has consented to the Works on condition that the Owner agrees to:
- a) grant and make a rent charge ("the Rent Charge") with the Council upon the terms and conditions set out in the Second Schedule, and
 - b) enter into the covenants and acknowledgments set out in the Third Schedule.
 - c) execute and register this Memorandum.

TERMS OF THIS MEMORANDUM:

The Owner encumbers the Land with the Rent Charge for the benefit of the Council and covenants with the Council as set out in the Third Schedule.

DATED this 2nd day of May 2006.

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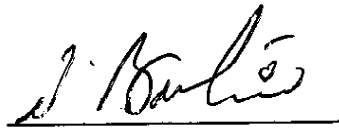


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SP
JB TB

SIGNED by
DAVID BARTON
in the presence of:

}
}
}


Signature



Witness signature

Witness name **GREG PRESLAND**
SOLICITOR

Address **WAITAKERE**

Occupation

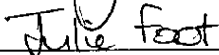
SIGNED by
TRACEY ALISON BEDFORD
in the presence of:

}
}
}

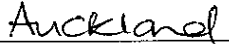

Signature



Witness signature



Witness name



Address

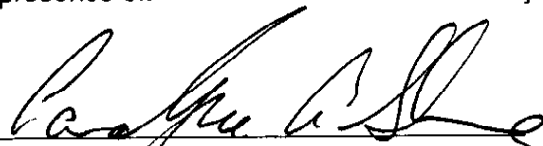


Occupation

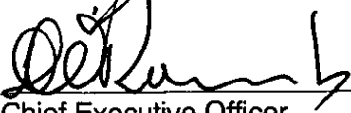
THE COMMON SEAL of the
WAITAKERE CITY COUNCIL
was hereunto affixed in the
presence of:

}
}
}





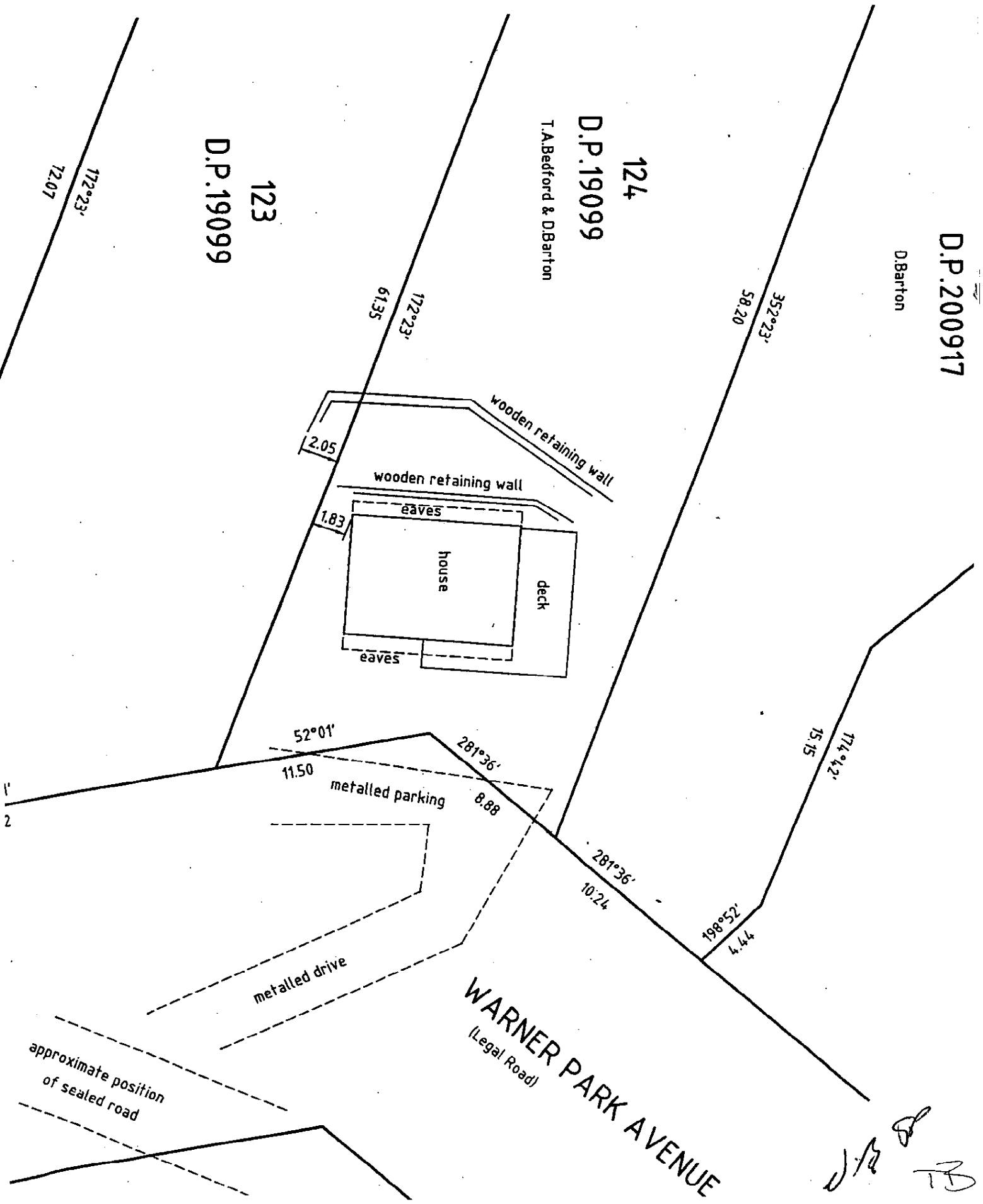
Mayor/Deputy Mayor



Chief Executive Officer



FIRST SCHEDULE [Plan]



Handwritten signatures and initials.

SECOND SCHEDULE
(Terms and Conditions of Rent Charge)

1. The Term of this Encumbrance is 999 years commencing from the date of this Memorandum.
2. The Rent Charge shall be the sum of \$1.00 (GST inclusive) payable on 1 July in each year, if demanded by that date.
3. Sections 63, 64, 64A, 70, 73, 104 (subject to section 64A(2)(b)) and 126G of the Property Law Act and sections 154 and 156 of the Land Transfer Act apply to this Memorandum.
4. The Council shall not be entitled to any of the powers and remedies given to mortgagees by the Property Law Act or the Land Transfer Act.
5. The Owner shall pay the costs of preparation, registration and discharge of this Memorandum.
6. For the avoidance of any doubt it is agreed that any person who is an owner of the Property shall no longer be liable to perform and observe the covenants in this memorandum when that person ceases to be an owner but nothing in this clause shall operate to relieve that person from liability for breach of covenant arising before that person ceases to be an owner or occupier of the Property.
7. The Covenants in this Memorandum constitute the complete and exclusive statement of the agreement between the parties and supersede all proposals or prior agreements, oral or written, and all communications between the parties and sets out all of their mutual obligations and rights relating to the subject matter of this Memorandum and except as otherwise expressly provided in this agreement no party has any other responsibility or obligation to any other party with respect to that subject matter.
8. Where there is more than one Owner the covenants in this Memorandum will bind each owner, jointly and severally.
9. Words importing the singular and plural number will include the plural and singular number respectively.

ST J/15

THIRD SCHEDULE (The Owner's Covenants)

1. THE Owner covenants with Council that:-

- a) The Owner will construct the Works in a good workmanlike manner in accordance with the plans and specifications approved by the Council and any building consent under the Building Act 2004 granted in respect of the Works.
- b) The Works may remain on the site, at the Owner's risk in all respects, at the pleasure of the Council. The Owner, at the Owner's expense, must remove the Works within one month of receiving written notice from the Council.
- c) If the Works are not removed by the Owner within one month of a notice given under clause 1(b) the Council may, at any time thereafter either:
 - (i) enter upon the site and remove the Works and the costs incurred will be a debt due and payable by the Owner to the Council upon demand; or
 - (ii) by notice in writing to the Owner waive the obligation to remove the same, but without payment of any costs or compensation whatsoever to the Owner.
- d) The Owner, at the Owner's expense, must at all times keep the Works and the Site in good, clean, neat, tidy and safe order and condition so that the Works do not constitute any danger or nuisance to any person or property. This obligation extends to include the cost of any repairs to damage to the Works from any cause whatsoever.
- e) If the Owner is in breach of the Owner's obligations under clause 1(d) and has failed to remedy that breach within a reasonable time after service of a notice specifying the nature of that breach the Council may enter upon the Site and undertake the necessary maintenance and repair work and the costs incurred will be a debt due and payable by the Owner to the Council upon demand.
- f) The Owner will not build place or erect on the Site any building or structure (whether temporary or permanent) other than the Works.
- g) The Owner will at all times indemnify the Council to the fullest extent permissible at law, from all actions, claims, costs (including legal costs on a solicitor/client basis) and demands in respect of any damage or injury to property or persons arising directly or indirectly out of or in relation to the Works, or any other improvements made by the Owner on the Site.

SP 1/18 TB

2. If any sum of money due by the Owner to the Council is not paid upon demand then interest will accrue on the amount so unpaid at a rate of interest equal to the Bank of New Zealand base commercial interest lending rate at the date of default plus 5% from the due date for payment down to actual payment. Interest shall continue to accrue at that rate both before and after judgment.

3. The Owner will pay the Council's reasonable costs of and incidental to the preparation, registration, enforcement (including attempted enforcement) or discharge of this Memorandum.

Handwritten initials and signature: J.B. TB

MORTGAGEE CONSENT

ANZ National Bank Limited being the Mortgagee under Mortgage No. 6361306.3 (North Auckland Registry) consents to the registration of this Memorandum and covenants with Council that in the event of a sale in exercise of the power of sale under the Mortgage the Land will be sold subject to this Memorandum.

DATED this day of **20 APR 2006**

Jacqueline Martin
Witness: **JACQUELINE PATRICIA MARTIN**
Occupation: **Bank Officer**
Address: **Auckland**

SIGNED by the said Mortgagee

ANZ National Bank Limited
by its Attorney

Shayaz Shameel Khan
SHAYAZ SHAMEEL KHAN

JK



The National Bank of New Zealand

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, **Shayaz Shameel Khan**, Manager Lending Services of Auckland in New Zealand certifies that:

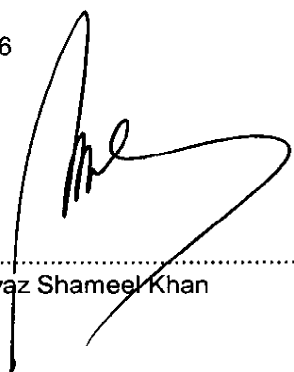
1. By Deed dated 28 June 1996 deposited in the Land Registry Offices situated at:

Auckland	as No.	D.016180	Hokitika	as No.	105147
Blenheim	as No.	186002	Invercargill	as No.	242542.1
Christchurch	as No.	A.256503.1			
Napier	as No.	644654.1			
Dunedin	as No.	911369	Nelson	as No.	359781
Gisborne	as No.	G.210991	New Plymouth	as No.	433509
Hamilton	as No.	B.355185	Wellington	as No.	B.530013.1

The National Bank of New Zealand Limited appointed me its attorney with the powers and authorities specified in that Deed.

2. On 26 June 2004 The National Bank of New Zealand Limited was amalgamated with ANZ Banking Group (New Zealand) Limited to become ANZ National Bank Limited and the property being dealt with pursuant to the Deed has become the property of ANZ National Bank Limited (as the amalgamated company) under Part XIII of the Companies Act 1993.
3. At the date of this certificate, I am the Manager Lending Services, Auckland Lending Services Centre of The National Bank of New Zealand, part of the ANZ National Bank Limited.
4. At the date of this certificate, I have not received any notice or information of the revocation of that appointment by the winding-up or dissolution of the ANZ National Bank Limited or otherwise.

DATED at Auckland this 20th day of April 2006


.....
Shayaz Shameel Khan

MORTGAGEE CONSENT

ANZ National Bank Limited being the Mortgagee under Mortgage No. 6361306.3 (North Auckland Registry) consents to the registration of this Memorandum and covenants with Council that in the event of a sale in exercise of the power of sale under the Mortgage the Land will be sold subject to this Memorandum.

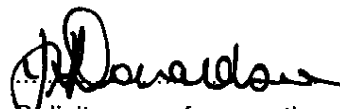
DATED this day of

SIGNED by the said Mortgagee

[Handwritten signature]

MEMORANDUM OF ENCUMBRANCE

Correct for the purposes of
the Land Transfer Act 1952



Solicitor for the
Encumbrancee

Between

**DAVID BARTON
and
TRACEY ALISON BEDFORD**

Owners

And

WAITAKERE CITY COUNCIL

Encumbrancee

Particulars entered in the Register as shown
in respect of the land referred herein.

Assistant Land Registrar
North Auckland Land Registry



Landonline User ID: centalstraau

LODGING FIRM: csr - Gyan Ph (09) 377 9488

Address: DX CP21506

Auckland

Uplifting Box Number: 134

ASSOCIATED FIRM: WCC

Client Code / Ref: Barton & Bedford

HEREWITH

Survey Plan (#)

Title Plan (#)

Traverse Sheets (#)

Field Notes (#)

Calc Sheets (#)

Survey Report

Dealing / SUD Number:

(LINZ use only)

Priority Barcode/Date
(LINZ use only)

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Copies
(inc. original)

DocID: 45244078

Plan Number Pre-Allocated or
to be Deposited:

Withdrawn Dealing Number: 6815293.1

Priority Order	CT Ref:	Type of Instrument	Names of Parties	DOCUMENT OR SURVEY FEES	MULTI-TITLE FEES	NOTICES	ADVERTISING	NEW TITLES	OTHER	RE-SUBMISSION & PRIORITY FEE	FEES \$ GST INCLUSIVE
1	NA988/218	ENC	Barton & Bedford Waikare City Council								50.00
2											
3											
4											
5											
6											
<i>Annotations (LINZ use only)</i>											
Original Signatures? _____											
Total dealings(for this page)											50.00
Total for this dealing											
Less Fees paid on Dealing #											
Cash/cheque enclosed for											50.00

Land Information New Zealand Lodgement Form

Fees Receipt and Tax Invoice

GST Registered Number 17-022-895

LINZ Form P005