



View Instrument Details

Instrument No 9344704.3
Status Registered
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Lodged By Watson, Catherine Jessica
Instrument Type Covenant (All types except Land covenants)



Affected Computer Registers **Land District**
NA2B/264 North Auckland

Annexure Schedule: Contains 7 Pages.

Signature

Signed by Grant John Summerell as Grantor/Grantee Representative on 27/02/2013 05:01 PM

*** End of Report ***

Between

PHILIP ANTHONY CONLAN and ANDREW PATRICK CONLAN

Covenantor

and

AUCKLAND COUNCIL

the Council

**COVENANT UNDER SECTION 108(2)(d) RESOURCE
MANAGEMENT ACT 1991**

IN THE MATTER of the Resource Management
Act 1991

A N D

IN THE MATTER of the Land Transfer Act 1952

COVENANT UNDER SECTION 108(2)(d) RESOURCE MANAGEMENT ACT 1991

**BETWEEN PHILIP ANTHONY CONLAN (31/50 share) and ANDREW PATRICK CONLAN
(19/50 share) ("Covenantor")**

A N D AUCKLAND COUNCIL ("the Council")

BACKGROUND

- A. The Covenantor is registered as proprietor of the Land.
- B. Council has granted Consent to the Covenantor to construct additions to the existing dwelling and extend the driveway on the Land.
- C. The Consent contained the condition for a covenant under section 108(2)(d) of the Resource Management Act 1991 as stated in the First Schedule.
- D. The Covenantor and the Council have agreed to enter into this covenant pursuant to Section 108(2)(d) of the Resource Management Act 1991 in fulfilment of the condition of the Consent.

COVENANTS

1. Interpretation

In this covenant, unless the context indicated otherwise:

1.1 Definitions

"Consent" means the land use consent numbered LUC 2009-392 dated 3 June 2009;

"Covenantor" means the person named as the Covenantor in this covenant and includes the person for the time being registered as proprietor of the Land;

"Land" means the Covenantor's land comprised in Computer Freehold Register NA2B/264 (North Auckland Registry); and



"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.

- 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 Covenantor covenants with the Council to perform the obligations as set out in the First Schedule hereto and imposed pursuant to section 108 of the Resource Management Act 1991 and the Consent.
- 2.2 The Covenantor acknowledges that this covenant shall bind and run with the Land in accordance with section 109 of the Resource Management Act.
- 2.3 The Covenantor covenants 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.

A handwritten signature in black ink, appearing to be 'Pb' followed by a flourish.

3. **Change in Use**

- 3.1 Any change in use will require assessment in terms of the provisions of the District Plan in force for the time being.
- 3.2 The Covenantor may apply to the Council for a release of this covenant where the Covenantor is 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 Covenantor's cost, provide the Covenantor with a release of this covenant.

4. **Costs**

- 4.1 The Covenantor shall pay the costs of preparation, stamping 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 Covenantor's 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.



2013
2012

IN WITNESS of this covenant has been executed on the _____ day of _____

EXECUTED as a DEED by PHILIP ANTHONY CONLAN)

[Signature]
Signature

in the presence of _____)

[Signature]
Witness signature

Alison Frances Gale
Full name

7A Marina Rd, Torbay
Address

Tutor
Occupation

Note: The signature must be witnessed by an independent person

EXECUTED as a DEED by ANDREW PATRICK CONLAN)

[Signature]
Signature

in the presence of _____)

[Signature]
Witness signature

Alison Frances Gale
Full name

7A Marina Rd, Torbay
Address

Tutor
Occupation

Note: The signature must be witnessed by an independent person

FIRST SCHEDULE

The conditions of the Consent are as follows:

6. Pursuant to Section 108(2)(d) a covenant is to be entered into, in favour of Council, to record that to mitigate against adverse effects on the environment, increased downstream flooding, increased stream channel erosion, or adverse effects on public infrastructure systems, on-site stormwater management systems are required on an ongoing basis to comply with EcoWater's Countryside and Foothills Stormwater Management Code of Practice / Stormwater Solutions for Residential Sites, and meet the following specific requirements:
 - (a) Maintain stormwater runoff flows, volumes, and timing to pre-development levels for the 2 year storm event(s).
 - (b) Mimic natural runoff patterns, and not to discharge directly to a watercourse, open drain or piped system. The stormwater dispersal device must be located in such a way that it will not interfere with wastewater disposal fields.
 - (c) On the second anniversary of the date of the Consent, and at two yearly intervals thereafter, the Covenantor (at the Covenantor's expense) must provide to the Council a report from a Chartered Professional Engineer or Registered Drainlayer demonstrating that the stormwater management system, including mitigation measures and devices installed as the condition of the Consent or as a condition of any future building consent for the proposed buildings, are functioning in accordance with their intended purpose.

Note: Council's Hazards and Special Features Register will be advised of the above requirements.

