



# Deed of covenant

**THIS DEED** made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**BETWEEN** \_\_\_\_\_ of  
 (hereinafter together with his/her successors, assigns and personal representatives  
 called "**the Owner**") of the first part

**AND THE HAURAKI DISTRICT COUNCIL** (hereinafter with its successors and  
 assigns called "**the Council**") of the second part

## WHEREAS

- A** The Owner is the registered proprietor of an estate in fee-simple in the land described in the Schedule hereto ("the land") and
- B** A carport has been erected on part of the land and
- C** A stormwater public sewer and a foul public sewer of the Council runs through the land and partly under the area over which the carport has been erected
- D** The carport's position partly over the said sewers is a contravention of and constitutes a continuing breach of the bylaws of the Council as the Owner does hereby admit and by reason thereof the Council would not ordinarily agree for the carport to remain in its present position but has nevertheless agreed for the carport to remain in consideration of the Owner entering into these premises in manner hereinafter appearing.

**NOW THIS DEED WITNESSES** that in consideration of the aforesaid premises the Owner hereby agrees with the Council as follows:

- 1** **THE** carport covering the said sewers shall remain in its present position and shall not at any time be covered in. The Owner shall not make any alterations or modifications to the said carport except pursuant to this Deed or in accordance with a permit issued by the Council.
- 2** **EXCEPT** in the case of an emergency (as determined in the sole and absolute discretion of the Council), any work carried out by the Council pursuant to this Deed will be carried out during the normal working hours of employees of the Council.
- 3** **THE** granting of the permission by the Council for the said carport to remain in its position is on the strict condition that all the agreements and provisions hereof on the part of the Owner shall be

complied with faithfully in all respects and is without prejudice (in the event of any default by the Owner hereunder) to the right of the Council to exercise all or any of the rights, powers and remedies whether civil or criminal conferred upon the Council by the Council's bylaws or by statute or otherwise.

- 4** **THE** Owner hereby agrees to indemnify the Council from and against all costs (including costs as between Solicitor and client), damages and expenses, claims, actions and proceedings of or against the Council in consequence of or arising out of any breach by the Owner of the agreements and provisions hereof and/or the exercise by the Council of any rights, powers and remedies available under this Deed.
- 5** **IN** addition to clause 4 hereof the Owner accepts that the Council will not be liable for any damage to the said carport arising directly or indirectly from a partial or total collapse of either or both the sewers, and will be responsible for the removal of the carport or parts thereof in the event of any such damage as requested by the Council.
- 6** **ALL** costs (including costs as between solicitor and client) of and incidental to this Deed (including the preparation thereof) and the Memorandum of Encumbrance aforesaid (including the preparation and registration thereof against the Title of the land) shall be borne by the Owner and shall be paid prior to and as a condition of the Council's granting of the permit aforesaid.
- 7** **IT** is hereby acknowledged and declared by the Council that if and when the said \_\_\_\_\_ or the registered proprietor for the time being sell, transfer or transmit their interest in the land or any part thereof, then all liability of the said \_\_\_\_\_ or the said registered proprietor thereof for the time being shall immediately cease and he/she or they shall be released as from the date of the said sale, transfer or transmission **TO THE INTENT** that the liability under this Deed of Covenant and Memorandum of Encumbrance made in pursuance thereof is only to run with the Owner for the time being of the said land or part thereof.

**IN WITNESS WHEREOF** these presents have been executed the day and year first before written.

SIGNED BY

in the presence of

THE COMMON SEAL of

THE COUNCIL

was hereto affixed in the presence of