



MEMORANDUM OF ENCUMBRANCE

WHEREAS:

- A. BURWELL JOHN HUNT, LORRAINE ISABEL ABERNETHY and DAVID JAMES UNDERWOOD ("the Encumbrancers") are registered as proprietors of an estate in fee simple being all the land in Certificate of Title SA 2A/1305 ("the land") situate at 1900 Tiki Road, Coromandel.
- B. The Encumbrancers have applied to the Council for consent to erect a new dwelling house and carport and to convert the existing dwelling on the property in to a craft studio, which craft studio will retain kitchen facilities in addition to the kitchen facilities to be included in the new dwelling.
- C. The Encumbrancers have accordingly sought permission from the Thames-Coromandel District Council ("the Council") to retain the kitchen facilities in the craft studio in addition to the kitchen facilities in the new dwelling.
- D. The Council is prepared to grant permission provided the Encumbrancers execute this Memorandum of Encumbrance securing to and for the benefit of the Council the covenants of the Encumbrancers contained in the Schedule hereto by way of rent charge hereinafter mentioned.

NOW THIS MEMORANDUM WITNESSES THAT:

1. THE Encumbrancers hereby encumber all the said land for the benefit of the Council in perpetuity with an annual rental of FIVE THOUSAND DOLLARS (\$5,000.00) to be raised and paid in one annual sum on the 1st day of October in each year during the currency hereof commencing with a payment on the 1st day of October 2005 PROVIDED ALWAYS that if during the period of twelve months immediately preceding any such payment date there has been no breach by the Encumbrancers of any of the obligations, covenants or agreements more

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particularly set out in the Schedule hereto then the annual rent charge payable hereunder on such payment date shall be deemed to have been paid and the Encumbrancers shall be entitled to an acknowledgment from the Council to that effect SUBJECT TO the Environment Planning Manager of the Council receiving from the Encumbrancers for the time being by the 1st day of October in each year a statutory declaration stating that the terms and conditions of this Memorandum of Encumbrance have been complied with AND PROVIDED FURTHER that this Memorandum of Encumbrance may at any time at the discretion of the Council be discharged in whole or in part by Memorandum of Discharge thereof executed under the common seal of the Council PROVIDED FURTHER HOWEVER that the rent charge if not collected in any one year shall accumulate by the same amount each year until it has reached the sum of \$50,000.00 and then the accumulations shall cease. The Encumbrancers agree that the Council shall be entitled to recover from the Encumbrancers the actual and reasonable costs on monitoring this encumbrance and acknowledging compliance with it and to achieve this the Council shall have the right to enter upon giving 24 hours' prior notice on the said land and the buildings for the purpose of monitoring compliance with this encumbrance.

2. SECTION 104 of the Property Law Act 1952 applies to this Memorandum of Encumbrance but otherwise (and without prejudice to the Council's rights of action at common law as a rent charger or Encumbrancee);
 - (a) The Council shall be entitled to none of the powers and remedies given to Encumbrancees by the Land Transfer Act 1952 and the Property Law Act 1952; and
 - (b) No covenant on the part of the Encumbrancer and his successors in title are implied in this Memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.
3. Despite anything stated or implied in this Memorandum of Encumbrance it is hereby agreed by the Encumbrancers and the Council that the Encumbrancer **DAVID JAMES UNDERWOOD** enters this Agreement as a trustee for the

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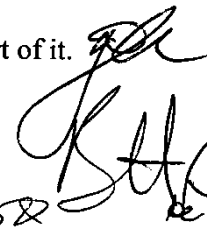

underwood BH

THE ABERNETHY HUNT FAMILY TRUST and not in any other capacity. The liability of the Encumbrancer **DAVID JAMES UNDERWOOD** under this Memorandum of Encumbrance is not unlimited liability and is limited to the assets for the time being of the **ABERNETHY HUNT FAMILY TRUST**.

SCHEDULE

1. THE Encumbrancers for themselves jointly and severally and for their successors in title being the registered proprietor or proprietors for the time being of the land ("the Owners") covenant with the Council as follows:
 - 1.1 The craft studio shall be an accessory building to be used for accommodation only for family members and invited non-paying guests.
 - 1.2 That the craft studio or any part thereof shall not be let or otherwise used for financial gain
 - 1.3 To remove the kitchen facilities from the craft studio within six months of the conditions specified in paragraph 1.1 above being no longer operative.
2. If the Owners breach condition 1.1 above then the Council shall have the right to enter on to the said land and remove the kitchen facilities from the craft studio if the Owners fail to do so after Council giving to the Owners one month's notice to remove the said kitchen facilities. The Council shall be entitled to recover from the Owners the cost of removal as well as the amount of the rent charge.
3. PROVIDED however that nothing in this Encumbrance shall be deemed to be an approval to:
 - (a) Sub-divide the said land;
 - (b) The grant of a lease or tenancy of the craft studio or any part of it.

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IN WITNESS WHEREOF this Deed has been executed on the 2nd day of
November 2004.

SIGNED by the said

BURWELL JOHN HUNT and

LORRAINE ISABEL ABERNETHY

as Encumbrancers in the presence of:-

cepta
 Anne Upton
 Legal Executive
 WELLINGTON

) *Bell A.*
)
) *L. Abernethy*
)

SIGNED by the said

DAVID JAMES UNDERWOOD

as Encumbrancer in the presence of:

John Gerard O'Regan

John Gerard O'Regan
 Solicitor
 Wellington

) *David James Underwood*
)
)
)

THE COMMON SEAL of the)

THAMES-COROMANDEL)

DISTRICT COUNCIL was)

hereunto affixed in the presence of:-)



P. Bamball Mayor / Councillor

[Signature] Authorised Officer

DATED 2 November

2004

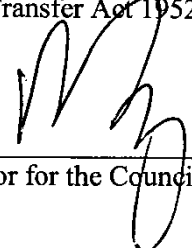
BETWEEN THE THAMES-COROMANDEL
DISTRICT COUNCIL

("the Council")

AND BURWELL JOHN HUNT,
LORRAINE ISABEL
ABERNETHY and DAVID JAMES
UNDERWOOD
("the Encumbrancers")

MEMORANDUM OF ENCUMBRANCE

Correct for the purposes of the
Land Transfer Act 1952



Solicitor for the Council

MILLER POULGRAIN
SOLICITORS
THAMES
D J PLAYER
DP1057

Landonline UserID: landinfo@nethe

HERE WITH

Dealing / SUD Number:

LODGING FIRM: Land Info Net Ltd - Hamilton

Survey Plan (#)

Address: PO Box 9213 or DX GX10061

Title Plan (#)

Hamilton

Traverse sheets (#)

0508 534 251

Field Notes (#)

Uplifting Box Number

37

Calc sheets (#)

ASSOCIATED FIRM

Survey Report

Client Code / Ref: Z447875 MP(30278 THAMES - COROMANDEL

Rejected Dealing Number:

Priority Barcode Date Stamp
(LINZ Use only)

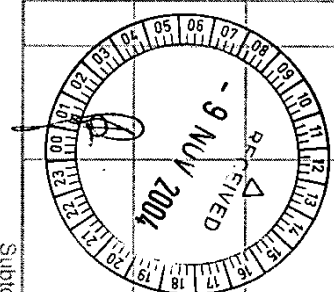
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Priority Order	CT Ref:	Type of Instrument	Name of Parties	DOCUMENT OR SURVEY FEES	Other (State)	MULTI-TITLE FEES	NOTICES	ADVERTISING	NEW TITLES	OTHER	RE-SUBMISSION PRIORITY FEE	FEES \$ GST INCLUSIVE
1	SA2A/1305	ENC	BU HUNT, LIABERNETHY & DU UNDERWOOD TO THE THAMES-COROMANDEL DC	50.00								\$50.00
2												
3												
4												
5												
6												

Annotations (LINZ Use Only)



Fees Receipt and Tax Invoice

GST Registered Number 17-022-895

LINZ Form P005

Original Signatures ?

Subtotal (for this page)

\$50.00

Total for this dealing

\$50.00

Less Fees Paid on Dealing #

Please debit my landonline account for

\$50.00

LINZ Form P005 -PDF

RCS 0 PR 1
AB AO

Version 1.6: 15 March 2004