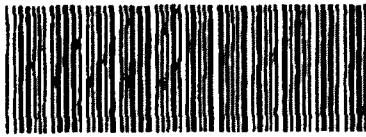


QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**GENERAL REQUEST**

Duty Imprint

9.  
FORM 14 Version 4  
Page 1 of 7



**712386947**

NO FEE  
06/05/2009 12:54

**NR 608**

**1. Nature of request**

REQUEST TO REGISTER STANDARD TERMS DOCUMENT

**Lodger (Name, address, E-mail & phone number)**

Sunshine Coast Regional Council  
P O Box 76 Nambour Qld 4560  
07 5441 8636 JDH:RXL

**Lodger Code**

NR 040

**2. Lot on Plan Description**

**County**

**Parish**

**Title Reference**

NOT APPLICABLE

**3. Registered Proprietor/State Lessee**

NOT APPLICABLE

**4. Interest**

NOT APPLICABLE

**5. Applicant**

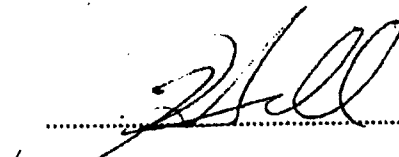
SUNSHINE COAST REGIONAL COUNCIL

**6. Request**

I hereby request that: pursuant to s169 of the Land Title Act 1994, the attached Standard Terms Document containing noise covenants for Sunshine Coast Regional Council.

**7. Execution by applicant**

08/14/09  
Execution Date

  
.....  
JOHN DAVID HALL - SOLICITOR  
Applicant's Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Title Reference [Title Reference]

DEFINITIONS

"Australian Standard AS 2107" means AS 2107: 2000 *Acoustics - Recommended Design Sound Levels and Reverberation Times*.

"Australian Standard AS 3671" means AS 3671: 1989 *Acoustics Road traffic noise intrusion - Building siting and construction*.

"Acoustic Covenant Plan" means the plan referred to in Condition (b) of the Reference Schedule.

"Act" means the Land Title Act 1994.

"Building Certifier" means:

- (a) an individual licensed as a Building Certifier by BSA; and
- (b) in part 5A- includes a former Building Certifier.

"Condition" means the Development Approval Condition recited at (b) in the Reference Schedule.

"Council" means the covenantee named in Item 3 of the Form 31 and includes in the case of a corporation, its successors in title and their and each of their executors administrators and assigns.

"Designated Covenant Area" means an area to which this Covenant applies as described in Item 2 of the Form 31.

"Development Approval" means the Development Approval referred to at (a) in the Reference Schedule.

"Dispute Notice" means a notice given by one party to the other pursuant to clause 7 of this Covenant.

"Form 31" means the Queensland Land Registry Form 31 Covenant attached.

"Habitable Room" means a room used for normal domestic activities, and includes a bedroom, living room, music room, television room, dining room, sewing room, study, playroom, family room and sunroom; but excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently or for extended periods.

"House" means any building that contains a Habitable Room.

"Land" means the Lots as described in Item 2 of the Form 31 and includes:

- (a) any estate or interest in, on, over or under the Land; and
- (b) the airspace above the surface of the land and any estate or interest in the Land; and
- (c) the subsoil of the land and any estate or interest in the subsoil; and
- (d) any part or parts of the Land; and
- (e) any estate or interest created in respect of any of the above matters.

"Lot" means each of the lots described in Item 2 of the Form 31.

"Noise Sensitive Residential Dwelling" means a building which

- (a) does not use any part of a House on the Land as a Habitable Room unless the indoor road traffic noise levels do not exceed the levels recommended in Australian Standard AS 2107; and
- (b) where necessary to meet the requirements of the above clause (a), the House has been constructed as Noise Sensitive Residential Dwelling in accordance with Australian Standard AS 3671; and
- (c) for any Private Open Space, the road traffic noise levels do not exceed the levels prescribed for Private Open Space as set out in Main Roads Road Traffic Noise Management Code of Practice or any road traffic noise level requirement prescribed in the relevant Planning Scheme, whichever is the lower.

Title Reference [Title Reference]

"Owner" means the covenantor described in Item 1 of the Form 31 and includes in the case of a corporation successors in title and assigns and in the case of a natural person or persons their successors in title and each of their executors, administrators and assigns.

"Planning Scheme" has the meaning given in the Integrated Planning Act 1997.

Unless otherwise noted, a word will have the definition given for that word in the Planning Scheme of the Council in whose area the lot is located.

Title Reference [Title Reference]

**1. COVENANT**

The purpose of this covenant is to ensure that the Land is used for the construction of a Noise Sensitive Residential Dwelling.

**2. NOISE SENSITIVE CRITERIA FOR A NOISE SENSITIVE RESIDENTIAL DWELLING**

The Covenantee and the Covenantor acknowledge and agree that any house on the Land must be constructed and used as a Noise Sensitive Residential Dwelling and has been certified in writing by a Building Certifier and certified by a Registered Professional Engineer of Queensland (RPEQ) skilled in acoustical design, to be in accordance with the requirements of Council and the development approval condition for this Lot as stated upon the attached schedule.

**3. ACKNOWLEDGEMENTS**

The parties acknowledge and agree that:

(a) the registration of and compliance with the Covenant is a condition of a Development Approval on the lot;

and

(b) this Covenant is intended to ensure compliance with that Condition of the Development Approval.

**4. OWNER'S OBLIGATION**

4.1. The Owner shall, unless otherwise agreed in writing by the Council, fully and effectively observe and comply with the obligations as follows:

(a) comply with the Condition.

(b) take reasonable measures to maintain the use of any part of a building, including a House, on the Lot as a habitable room only in accordance with clause 2.0.

4.2. In the event that an exercise of the obligations in clause 4.1 are found to be inconsistent with the relevant provisions of any Legislative Instrument or the Planning Scheme, the Legislative Instrument or Planning Scheme shall prevail to the extent of the inconsistency.

**5. REMEDY FOR NON-COMPLIANCE**

5.1. In the event of non-compliance by the Owner with the Owner's obligations in clause 4 the Council may issue a written notice requiring the Owner to remedy the non-compliance.

5.2. The Owner must comply with a written notice issued pursuant to clause 5.1 within 14 days or such other time period as may be specified in the notice.

5.3. In the event that the Owner fails to comply with a written notice within the time allowed in accordance with clause 5.2, the Council may exercise the Council's right under clause 6.

**6. DEFAULT BY OWNER**

6.1. If the Council forms the view that the Owner has breached this Covenant the Council may agree to proceed in accordance with clause 7; or

6.2. The Council may exercise its powers under the Integrated Planning Act 1997 and other statutory provisions in the event of a breach of this Covenant.

6.3. The Owner is liable only for breaches of this Covenant which occur while the Owner is the registered owner of any interest in the Lot and then only to the extent of that interest.

Title Reference [Title Reference]

**7. SETTLEMENT OF DISPUTES**

- 7.1. This clause shall apply to any dispute between the parties to this Covenant.
- 7.2. Any dispute as to the performance of this Covenant or arising out of this Covenant that cannot be resolved by agreement between the parties must be clearly identified in a Dispute Notice served by one party on the other party.
- 7.3. Within five (5) days of the date of the Dispute Notice, the parties must meet to discuss the dispute and its possible determination.
- 7.4. The parties may within seven (7) days of meeting in accordance with clause 7.3 agree to refer the dispute to mediation.
- 7.5. If the parties agree to mediate in accordance with clause 7.4, then the parties may either:
- (a) appoint a mediator agreed by the parties; or
  - (b) where the parties fail to agree to the appointment of a mediator within the period referred to in clause 7.4, request for the President for the time being of the Queensland Law Society Incorporated to nominate a mediator which the parties must then appoint as the mediator.
- 7.6. The costs of any mediator appointed under clause 7.5 must be borne equally by the parties
- 7.7. If any dispute notified under clause 7.2 remains unresolved, then at any time between fourteen (14) and thirty-five (35) days (inclusive) after the date of a Dispute Notice, and whether before or after reference of a dispute to a mediator under clause 7.5, either party may institute proceedings in the appropriate court for determination of the dispute.
- 7.8. The parties may mutually agree in writing to extend any time period specified in clause 7.
- 7.9. Clause 7 of this Covenant does not prevent the Owner or the Council from obtaining any injunctive declaratory or other interlocutory relief from a court, which may be urgently required.

**8. SERVICE**

- 8.1. A notice is sufficiently made, given or served by a party if left at or forwarded by prepaid post in an envelope addressed to the other party or any of them (where there are more persons than one person comprising the other party) at the address of that party.
- 8.2. A notice if sent by prepaid post is deemed to have been made, given or served at the time when in the due course of the post it would be delivered at the address to which it is directed whether or not it is actually received.
- 8.3. In proving service of a notice made, given or served by the Council it is only necessary for the Council to certify to that effect under the hand of the Chief Executive Officer.
- 8.4. A notice given by a party must be:
- (a) in writing; and
  - (b) signed by the party, an officer of that party or the solicitor of that party.
- 8.5. A party receiving a notice is not obliged to enquire as to the authority of the person signing the notice

Title Reference [Title Reference]

**9. COVENANT RUNS WITH THE LAND**

- 9.1. Unless it is otherwise expressly provided in this Covenant, every obligation and covenant of the Owner in this Covenant constitutes a personal covenant granted under section 97A of Act in respect of the Designated Covenant Area.
- 9.2. This Covenant burdens the Lot and runs with the Lot and binds the successors-in-title to the Lot and to any parcel into which that Lot is reconfigured by any means.

**10. NOTICE OF INTENDED CHANGE OF OWNERSHIP**

- 10.1. Where the Owner intends to transfer title to the Lot to another person, the Owner must notify the Council in writing of the transfer and the name and address of the new owner within 3 months after the change of ownership or control.

**11. NO EFFECT ON RATES AND CHARGES AND COMPLIANCE WITH LAWS**

- 11.1. For the avoidance of doubt, nothing in this Covenant:
- (a) affects the liability of the Owner to pay all taxes, rates, charges and levies lawfully imposed in respect of the Lot; and comply with all relevant laws (including the Planning Scheme applying to the Lot); or
  - (b) imposes a liability on the Council to make a monetary payment to the Owner in the form of compensation or otherwise.

**12. REGISTRATION**

- 12.1. The Owner shall do everything necessary at the Owner's expense to ensure that this Covenant is registered against the title to the Lot as soon as it is reasonably practicable after the execution of this Covenant.
- 12.2. The Council shall do everything necessary (including executing any documents) to give effect to this Covenant and the transactions contemplated by it.

**13. WAIVER**

- 13.1. No waiver by the Council of any breach by the Owner of any of the provisions of this Covenant shall be implied against the Council or be otherwise effective unless it is in writing under the hand of the Chief Executive Officer.

**14. LACHES AND DELAY**

- 14.1. No laches or delay by the Council at any time or times in enforcing any of its rights, powers and the like under this Covenant prejudice or affect those rights or powers.

**15. SEVERANCE**

- 15.1. If any provision of this Covenant cannot be given effect or full force and effect by reason of statutory invalidity that provision shall be severed or read down but so as to maintain and uphold so far as possible the remaining provisions of this Covenant

**16. ENDUREMENT**

This Covenant binds the parties to it and their respective successors, assigns, heirs, executors and administrators.

Title Reference [Title Reference]

**17. TIME**

Time shall, in all cases, be of the essence in this Covenant.