

Auckland Unitary Plan

Standard Conditions Manual

Covenants for Land Use Consents

Disclaimer

The information in this Standard Conditions Manual is, according to Auckland Council's best efforts, accurate at the time of publication. Auckland Council makes every reasonable effort to keep it current and accurate. However, users of the Conditions Manual are advised that:

- *Although the conditions are “standardised”, in the sense that they should be applied consistently where they are required, this does not mean that they should all be applied in every instance. Applicants need to consider the nature of the activity, and the characteristics of the site and its surroundings in considering whether to apply each and every condition.*
- *The standard conditions should be used with caution as a starting point from which appropriate conditions for the individual consent should be drafted to align with the requirements of ss108, 108AA and 220 of the Resource Management Act 1991.*
- *Further guidance as to whether to apply the conditions are included in the guidance notes that accompanies each condition.*
- *Users should take specific advice from qualified professional people before undertaking any action as a result of information obtained in this Standard Conditions Manual.*
- *Auckland Council does not accept any responsibility for, or liability whatsoever whether in contract, tort, equity or otherwise (including negligence) arising from the use of, or reliance on, this Standard Conditions Manual. This includes, without limitation, any liability arising from any error, or inadequacy, deficiency, flaw in or omission from the information provided.*

Conditions

Condition 1: Covenants for land use consents

The consent holder must enter into a section 108 Resource Management Act 1991 covenant in favour of Auckland Council [the council] for [state the site's legal description]. The consent holder shall contact Council to initiate the preparation of the covenant. A copy of the updated Computer Register (Record of Title) showing that the covenant has been registered must be provided to Council prior to commencement of the activity.

The covenant must:

- [\[insert requirements of the covenant\]](#)
- be drafted by the council's nominated Solicitor at the consent holder's cost; and
- be registered against the [Computer Register](#)(s) (record of title) to the affected land by the consent holder at their cost; and
- require the consent holder to:
 - a. be responsible for all legal fees, disbursements and other expenses incurred by the council in connection with the covenant, and procure its solicitor to give an undertaking to the council for payment of the same; and
 - b. indemnify the council for costs, fees, disbursements and other expenses incurred by the council as a direct or indirect result of the council being a party to this covenant.

Guidance Note

Covenants create an interest in land that may be registered on the Computer Register (record of title). Where a condition will be expected to be complied with over time by the landowner and any subsequent landowners, covenants can be placed on the title of the land to ensure that any purchasers are aware of their obligations under the conditions of the consent. Conditions that are to be subject to a covenant should clearly identify what is required, how it is to be undertaken and when and with what frequency. Clause (a) should be very specific to cover the items that need to be covenanted. For example, a covenant requiring the protection and maintenance of a stormwater detention tank should specify the frequency of maintenance (e.g. sediment removal works) and a report regime confirming the maintenance has been undertaken accordingly.