



**Variation of restrictive Covenant U370026L on Lot 27 of Plan of Subdivision 348452W Volume 10293 Folio 068 at 11 Gotemba Road Bell Post Hill**

This application seeks to vary Covenant U370026L on Lot 27 of Plan of Subdivision 348452W Volume 10293 Folio 068. Covenant U370026L currently requires the following:

- (a) That they shall not at any time erect, construct or cause to be erected or constructed on the said lot hereby transferred or any part thereof a dwelling of which the construction does not have less than 75% of the external walls (excluding glass) of rendered masonry, brick or brick veneer PROVIDED HOWEVER that with the prior written approval of the Transferor the external walls of a dwelling may be constructed of other materials;
- (b) That at no time shall more than one dwelling be constructed on the subject land.

No amendment is proposed to part (a) of Covenant U370026L. The external wall area of the dwelling has been calculated at 370.3m<sup>2</sup> (excluding glass). The area of cladding which is of materials not listed in part (a) is 37.0m<sup>2</sup> or 10%. The external wall area of the building is made up of 90% of external walls of materials deemed as, rendered masonry, brick or brick veneer.

No amendment is proposed to part (b) of Covenant U370026L.

The application seeks to include the following additional paragraph (c) to Covenant U370026L to read as follows:

***(c) "Despite (b) above, Lot 27 can be used, developed and subdivided for 2 dwellings generally in accordance with a planning permit issued by the responsible authority."***

The purpose of adding condition (c) is to provide comfort to the beneficiaries that the future lots are not further subdivided.

The current beneficiaries of Covenant U370026L are "each and every Lot on the said Plan of Subdivision." The beneficiaries are listed as follows; Lots 1-22(Inclusive), Lot 26, Lots 28-38(Inclusive), Lots 48-82(Inclusive), Lots 150-155(Inclusive), a total of 75 lots.

Pursuant to Clause 52.02, a planning permit is required before a person proceeds under section 23 of the Subdivision Act 1988 to remove or vary a restriction.

Lots within the original subdivision have sought and been provided with approval for similar variations to Covenant U370026L. Lot 69 has been granted a permit to vary Covenant U370026L. The variation has been completed and the lot subdivided into 2 lots. The variation of Covenant U370026L has not resulted in a financial loss, loss of amenity, loss arising from a change to the character of the neighbourhood or any other material detriment. Amending Covenant U370026L on Lot 27 will not result in a financial loss, loss of amenity, loss arising from a change to the character of the neighbourhood or any other material detriment to the benefitted lots.

The intention of the owners of Lot 27 is to construct the dwellings for owner occupation.