

KINNOULL CONSERVATION COVENANT

(Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this day of 2009

BETWEEN

NEW ZEALAND FORESTRY GROUP LIMITED (the Owner)

AND

WELLINGTON CITY COUNCIL (WCC)

BACKGROUND

- A. The Owner is the registered proprietor of the Land.
- B. The Land contains Reserve Values.
- C. The parties agree that:
 - (i) the Land should be managed so as to preserve the Reserve Values; and
 - (ii) such purpose can be achieved without the WCC acquiring a fee simple or leasehold interest in the Land.
- D. The Owner has agreed to grant the WCC a Covenant over the Land to preserve the Reserve Values.

OPERATIVE PARTS

In accordance with section 77 of the Reserves Act 1977, and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and the WCC agree as follows:

1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

“Act”	means the Reserves Act 1977.
“Building Envelope”	means those areas marked on the survey plan inside which a building may be erected.
“Covenant”	means this Deed of Covenant made under section 77 of the Act.
“Fence”	includes a gate.

“Fire Authority”	means a fire authority as defined in the Forest and Rural Fires Act 1977.
“Land”	means the Land described in Schedule 1.
“Minerals”	means any mineral that is not a Crown-owned mineral under section 2 of the Crown Minerals Act 1991.
“Natural Water”	includes water contained in streams the banks of which have, from time to time, been re-aligned.
“Owner”	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
“Reserve Values”	means any or all of the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
“Working Days”	means the period between any one midnight and the next excluding Saturdays, Sundays, and statutory holidays in the place where the Land is located.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute;
- 1.2.2 references to clauses are references to clauses in this Covenant;
- 1.2.3 references to parties are references to the Owner and the WCC;
- 1.2.4 words importing the singular number include the plural and vice versa;
- 1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant and seek to determine the issue, the parties must have regard to the matters contained in the Background;
- 1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done;
- 1.2.7 words importing one gender include the other gender;
- 1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity;
- 1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVE OF THE COVENANT

2.1 The Land must be managed so as to preserve the Reserve Values.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties without compromising the Reserve Values, the Owner must not carry out or permit on or in relation to the Land:

- 3.1.1 removal or damage of any tree, shrub or other plant (other than pruning of trees to the extent that they block sea views from a house within a building envelope), subject to clause 3.3.1;
- 3.1.2 the erection of any Fence, building, structure or other improvement for any purpose, with the exception of:
 - (a) Fences around natural springs or water holding tanks; and
 - (b) The erection of power and telephone poles that blend in as far as possible with the landscape; and
 - (c) Any buildings or structures for which the required consents are granted;
- 3.1.3 any burning, topdressing or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds, pests, exotic plants, and plants not indigenous to the area;
- 3.1.4 any cultivation, earth works or other soil ground disturbances, except
 - (a) to allow for the establishment and maintenance of a limited number of low impact minor walking tracks; and
 - (b) the maintenance of existing walking tracks; and
 - (c) the construction of access roads to building sites which are being used as such, provided that there shall be only one access road to each building site; and
 - (d) the construction and maintenance of the roads within the Rights of Way through the Land; and
 - (e) where required for the purposes for the erection of any Fence, building, structure or other improvement in terms of clause 3.1.2; and
 - (f) where required for the construction and maintenance of fire dams;
- 3.1.5 any prospecting, mining or quarrying for Minerals, coal or other deposit or moving or removal or marking, defacing or blasting of rock of any kind on or under the Land;

