



Queen Elizabeth II

National Trust

For open space in New Zealand

Nga Kairauhi Papa

OPEN SPACE COVENANT

OPEN SPACE COVENANT

(Pursuant to Section 22 of the Queen Elizabeth the Second National Trust Act 1977)
WHEREAS MARION CARTHEW OSBORNE of WAIKANAE, Married Woman and RONALD JOSEPH OSBORNE of WAIKANAE, Retired.

(hereinafter called "the Covenantor") are registered as proprietors of an estate as set out in the Schedule of land hereto (hereinafter called "the land")

AND WHEREAS the QUEEN ELIZABETH THE SECOND NATIONAL TRUST established by the Queen Elizabeth the Second National Trust Act 1977 (hereinafter called "the Trust") is authorised by that Act to obtain open space covenants over any private land or any land under Crown Lease

AND WHEREAS the Covenantor has agreed to enter into an open space covenant with the Trust for the purpose set forth in the First Schedule hereto

NOW THEREFORE in consideration of the covenants and conditions hereinafter contained **THESE PRESENTS WITNESS** that in pursuance of the said agreement and by virtue of Section 22 of the Act the Covenantor and the Trust with the intent and so as to bind the land into whosoever hands the same may come **MUTUALLY COVENANT** at all times to observe and perform the respective duties and obligations imposed by the restrictions, stipulations and agreements contained in the Schedules hereto to the end and intent that the same shall bind the land in perpetuity or for the unexpired term thereof of the Covenantor's lease of the land and any renewal thereof as the case may be.

FIRST SCHEDULE

The Purpose of the within written open space covenant is to achieve the following open space objectives of the Covenantor and the Trust:

- a) To protect and maintain open space values of the land.
- b) To protect and maintain the wetland ecosystem and its associated area as a habitat for wildlife.

SECOND SCHEDULE

Interpretations, restrictions, stipulations and agreements

1. In the Deed unless the context otherwise requires:-

"Act" means the Queen Elizabeth the Second National Trust Act 1977.

"Board" means the Board of Directors of the Queen Elizabeth the Second National Trust.

*M.C.B. B.C.
RGO RP
JMO M.E.*

"Covenantor" means the "Owner" who entered into this covenant with the Trust.
"Trust Manager" means the person appointed under Section 18(1)(a) of the Act.
"Owner" means the person or persons who from time to time are registered as the proprietor(s) of "the land".

"the land" means the property or part thereof defined as subject to this covenant and as shown on the plan annexed to this Deed.

2. No act or thing shall be done or placed or permitted to be done or remain upon the land which in the opinion of the Board materially alters the actual appearance or condition of the land or is prejudicial to the land as an area of open space as defined in the Act.
In particular, on and in respect of the land, except with the prior written consent of the Board, the Owner shall not:
 - (a) Fell, remove, burn or take any native trees, shrubs or plants of any kind.
 - (b) Plant, sow or scatter any trees, shrubs or plants or the seed of any trees, shrubs or plants other than local native flora, or introduce any substance injurious to plant life except in the control of noxious plants.
 - (c) Mark, paint, deface, blast, move or remove any rock or stone or in any way disturb the ground.
 - (d) Construct, erect or allow to be erected, any new buildings or make exterior alterations to existing buildings.
 - (e) Erect, display or permit to be erected or displayed, any sign, notice, hoarding or advertising matter of any kind.
 - (f) Carry out any exploration for, or mining or quarrying of any minerals, petroleum, or other substance or deposit.
 - (g) Dump, pile or otherwise store any rubbish or other materials, except in the course of maintenance or approved construction, provided however that after the completion of any such work all rubbish and materials not wanted for the time being are removed and the land left in a clean and tidy condition.
 - (h) Effect a subdivision as defined in the Local Government Act 1974.
 - (i) Allow cattle, sheep, horses, or other livestock to enter, graze, feed or otherwise be present provided, however, that they may graze up to any approved fenceline on the perimeter of the land.
3. In considering any request by the Owner for an approval in terms of Clause 2 hereof, the Board will not unreasonably withhold its consent if it is satisfied that the proposed work is in accordance with the aim and purpose of the covenant as contained in the First Schedule.
4. Except with the prior written consent of the Board, no action shall be taken or thing done, either on the land or elsewhere, which will in any way cause deterioration in the natural flow, supply, quantity, or quality of any river, stream, lake, pond, marsh, or any other water resource affecting the land.
5. The Owner shall notify the Trust of any advice received from any power authority, mining company, or other body or person of the intention to erect utility transmission lines or carry out any mining or quarrying on the land and shall not signify any concurrence in relation to the proposed work without the written permission of the Board.
6. (i) The Owner shall continue to comply with the provisions of the Noxious Plants Act 1978 and the Agricultural Pests Destruction Act 1967 and all amendments thereto

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M.B.B. TRP
R.J.O. M.E.
J.M.O.

provided, however, that the Owner may request assistance from the Trust in carrying out the aforementioned responsibility.

6. (ii) That in keeping with the aims and purposes of this covenant the Owner shall continue to comply with the Wild Animal Control Act 1977 and shall take reasonable measures for the control of wild animals as defined in the Act.
7. The Owner shall keep all fences and gates on the boundary of the land in good order and condition and will accept responsibility for all minor repairs. Except as provided for in Clause 8 herein or in the Third Schedule hereto rebuilding or replacement of all such fences and gates will be the responsibility of the Owner and the Trust equally between them as to the Owner's share of cost incurred.
8. The Trust shall repair and replace to its former condition any fence, gate or other improvement on the land which may have been damaged in the course of the Trust or any member of the public exercising any of the rights conferred by the covenant.
9. Subject to any conditions mutually agreed between the Trust and the Owner, members of the public shall have access to the land with the prior permission of the Owner.
10. The Owner may approve the use of firearms and traps by any person or persons for the eradication of noxious animals on the land.
11. The Trust, through its officers, agents or servants, may at all times enter upon the land for the purpose of viewing the state and condition thereof. In exercising this right, any officer, agent or servant of the Trust will notify the Owner in advance.
12. Any consent, approval, authorisation or notice to be given by the Trust shall be sufficient if given in writing signed by the Trust Manager and delivered or sent by ordinary post to the last known residential or official address of the Owner or to the solicitor acting on behalf of the Owner.
13. The Owner or the Trust may at any time during the term of this covenant, by mutual agreement, carry out any works, improvements or take any action either jointly or individually or vary the terms of this covenant to ensure the more appropriate preservation of the land as an open space in terms of the Act provided, however, such agreement is not contrary to the aim and purpose of this covenant.
14. The Trust may, with the prior approval of the Minister of Conservation, revoke this covenant if all the members of the Board are satisfied that by reason of any change in the character of the land or of any other circumstances which the Board may deem sufficiently material, this covenant ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable use of the land without securing any practical benefit consistent with the purpose of the Act.
15. Nothing in these presents hereinbefore contained shall be deemed to render the Covenantor personally liable for any breach of these covenants and conditions committed after the Covenantor shall have ceased to be the Owner.
16. The Owner shall notify the Trust of any change of ownership or control of all or any part of the land, and shall supply the Trust with the name and address of the new owner or lessee.
17. If at any time prior to registration hereof by the District Land Registrar the Owner desires to sell or otherwise dispose of all or any part of the land such sale or disposition shall be made expressly subject to the restrictions, stipulations and agreements contained in the Second Schedule hereto.

X
M. C. O. B. N.
R. D. O. TRP
S. M. O. M. E.

THIRD SCHEDULE

1. The Owner may remove water from the wetland and pond area for domestic purposes.
2. The Owner may have access across the area at the western end.

X
M.C.C. Bk.
Ryo RP
AMO

SCHEDULE OF LAND

Registry:
Estate:

WELLINGTON
fee simple

Area:

9710 m²

Lot & D.P. No.
(other legal description)

~~Part Lot 2~~
~~XXXXXX~~
~~Block V~~
~~Kaitawa Survey~~

Part of
Lot 2
DP 71916
Block V
Kaitawa Survey District
shown as 'A' on DP 77456
subject to Encumbrance B311436.3

TRP

Part Certificate(s) of Title:

~~240/595~~ ~~XXXXXX~~ 44C/426

IN WITNESS WHEREOF this memorandum has been executed
this 5th day of September 19 93.

Signed by

MARION CARTHEW OSBORNE

M. C. Osborne.

RONALD JOSEPH OSBORNE

R. J. Osborne

as Covenantors
in the presence of:

Witness

S. Osborne

Occupation

Librarian

Address

110 Te Moana Rd.

Waikanae

THE COMMON SEAL of the QUEEN
ELIZABETH THE SECOND NATIONAL
TRUST was hereto affixed in the
presence of:

M. P. Benson

Chairman

Bruce Mollay

Director

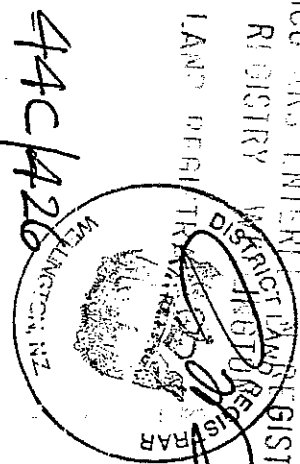
TR Benson

Trust Manager

DUPLICATE

12.15 13.APR95 B 429547.1

PARTICULARS AND GENERAL REGISTER
LAND REGISTRY
DISTRICT LAND REGISTER
FIRST LAND DEPT. THAMES



44C/426