

**DEED OF COVENANT**  
(Section 77 Reserves Act 1977)  
Te Parinui o Whiti (White Cliffs)

THIS DEED made the 22nd day of October 1998

**BETWEEN**

- (1) **TE RŪNANGA O NGĀI TAHU** (*the Landholder*)
- (2) **THE MINISTER OF CONSERVATION** (*the Minister*)

**WHEREAS**

- A The Landholder and the Crown are parties to a Deed of Settlement dated 21 November 1997.
- B Pursuant to the Deed of Settlement and Section 121 of the Ngāi Tahu Claims Settlement Act 1998, the Crown agreed to transfer to the Landholder certain land including the Land, such transfer to be subject to a Deed of Covenant being entered into between the Landholder and the Minister which recognises that certain measures are necessary to protect the agreed conservation values defined in this agreement.
- C This covenant is entered into by the Minister pursuant to section 77 of the Reserves Act 1977, and therefore binds all future owners of the Land.

NOW THEREFORE, the parties, in accordance with section 77 of the Reserves Act 1977, agree as follows:

**1 DEFINITIONS AND INTERPRETATION**

- 1.1 In this Deed unless the context otherwise requires:

*Act* means the Reserves Act 1977;

*Coastal Strip Area* means “the strip of land 20 metres wide extending along and abutting the landward margin of any foreshore”;

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*Conservation Values* means those values contained in the area of coastal dry cliff and shrubland communities, including the populations of local endemic plants such as *Senecio Hawaii*;

*Crown* means Her Majesty the Queen in right of New Zealand;

*Land* means the land described in *Schedule 1*.

- 1.2 In the interpretation of this Deed, unless the context otherwise requires:
- 1.2.1 headings appear as a matter of convenience and are not to affect the interpretation of this Deed;
  - 1.2.2 the singular includes the plural and vice versa, and words importing one gender include the other genders;
  - 1.2.3 a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations but this provision shall be read subject to *clause 1.3*;
  - 1.2.4 a reference to a party to this Deed or any other document or agreement includes that party's successor, heirs, executors and assigns in perpetuity;
  - 1.2.5 a reference to the Minister includes any officer or duly authorised agent of the Minister;
  - 1.2.6 the Landholder shall not be personally liable in damages for any breach of agreement committed, after he/she/it has parted with all interest in the Land if such a breach occurs;
  - 1.2.7 where there is more than one owner of the Land, this Deed binds them both jointly and severally;
  - 1.2.8 where the Landholder is a company, the covenants contained in this Deed shall bind a receiver, liquidator, statutory manager or statutory receiver.

Where the Landholder is a natural person, this Deed shall bind the official assignee. In either case, this Deed binds a mortgagee in possession.

- 1.3 The parties agree that the rule of interpretation referred to in *clause 1.2.3* is intended only to facilitate interpretation of this Deed in circumstances where legislative changes make statutory references in this Deed obsolete. It is not intended to indicate, and should not be interpreted as indicating, any consent by the Landholder to, or acquiescence by the Landholder in, the introduction to Parliament by the Crown of any proposed statutory amendment which would adversely affect the redress provided by the Crown pursuant to the Deed of Settlement referred to in *Recital A* or the ability of either party to fulfil its obligations expressed in this Deed or in that Deed of Settlement.

## 2 PROTECTION OF CONSERVATION VALUES

- 2.1 In order to protect the Conservation Values, the Landholder agrees with the Minister that the Landholder will not carry out, or allow to be carried out, without the prior consent of the Minister:
- (a) Any removal of native plants, shrubs, or trees;
  - (b) Any burning, chemical spraying, topdressing or the sowing of exotic seed;
  - (c) Any significant cultivation, earthworks or other soil disturbance; or
  - (d) Any planting of trees or shrubs which are not indigenous.

The Minister's consent will not be unreasonably withheld.

- 2.2 In order to protect the Conservation Values, the Landholder agrees, as far as reasonably practicable, to keep the Land:
- (a) free of gorse, broom, old man's beard, nodding thistle and other plant pests;
  - (b) free from rabbits, possums, goats, and other animal pests; or
  - (c) free from rubbish or other unsightly or offensive material.

### 3 REGISTRATION OF COVENANT

- 3.1 The Minister will cause a notification of this covenant to be recorded against the title to the Land in the manner provided for in section 77 of the Reserves Act 1977, as soon as reasonably practicable after the execution of this Deed. The intention of recording the covenant against the title in this way is to bind future owners and to allow for the application of sections 93-105 of the Reserves Act 1977.

### 4 ACCESS FOR MINISTER

- 4.1 The Landholder grants the Minister a right of access onto the Land for the purpose of:
- (i) examining and recording the condition of the Land;
  - (ii) carrying out work for the protection and/or enhancement of the Conservation Values, including plantings of dryland Marlborough endemic plants where appropriate; or
  - (iii) erecting, at his cost, any fencing necessary for the protection of the Conservation Values.

In exercising this right of access, the Minister must obtain the prior consent of the Landholder and take all reasonable steps to minimise disruption to the Landholder's operations on the Land. The Landholder agrees not to unreasonably withhold or delay consent. Nothing in this clause requires the Minister to carry out any such work.

### 5 PUBLIC ACCESS

- 5.1 The Landowner agrees that the public will be allowed access along and over the Coastal Strip Area. Public access on to and over the remainder of the Land may be allowed with the consent of the Landowner for purposes consistent with this Deed and the Landowner agrees not to unreasonably withhold consent.

**6 INDEMNITY**

The Minister agrees to indemnify the Landholder from and against all actions, claims, demands, losses, damages, costs and expenses for which the Landholder shall become liable arising from loss or damage to the property of, or death or injury to, any person on any part of the Land in accordance with the right of access given under *clause 5.1* unless such loss, damage, death or injury is caused or contributed to by any act, omission, neglect or breach of this Deed of Covenant on the part of the Landowner or any employee, contractor or agent of the Landowner.

**7 NOTICES**

7.1 Any notice required to be given to either party under this Deed will be sufficiently given if in writing and served as provided in section 152 of the Property Law Act 1952 and shall be sufficiently given if sent by post or delivered to the residential address of the Landholder or the Landholder's solicitor. In the case of the Minister, the notice will be sufficiently given if it is sent by post or delivered to the office for the time being of the Conservator, Department of Conservation, Nelson/Marlborough Conservancy.

**8 DISPUTE RESOLUTION**

8.1 Any dispute which arises between the Landholder and the Minister in any way relating to this agreement may be resolved by referring the dispute to an agreed third party for decision or by arbitration under the provisions of the Arbitration Act 1996.

SCHEDULE 1

All that land situated in Marlborough Land District, Marlborough District, comprising an undefined area, being Crown Land, Block III, Clifford Bay Survey District. Subject to survey, as shown on Allocation Plan MS 7 (S.O. 7304) attached to the Deed of Settlement.



EXECUTED as a Deed on 22 October 1998

SIGNED by HON. DR NICK SMITH,  
Minister of Conservation

*[Handwritten Signature]*  
\_\_\_\_\_  
Hon. Dr Nick Smith

in the presence of:

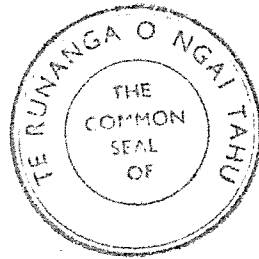
Graeme Campbell  
Witness

*[Handwritten Signature]*  
Signature

Conservation Advisor  
Occupation

Wellington  
Address

THE SEAL of  
TE RŪNANGA O NGĀI TAHU was  
affixed to this document in the  
presence of:



M W [Handwritten]

Rūnanga Representative

*[Handwritten Signature]*

Secretary

*[Handwritten initials]*