

CONSERVATION COVENANT
(Section 77 Reserves Act 1977)

COU 5009824.9 COVENANT (ALL TYPE)
 CPY-01/02.PGS-007.02/10/00.16151



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BETWEEN [REDACTED] of Lowburn Farmer and [REDACTED]
 [REDACTED] his wife ("the Landholders")
AND MINISTER OF CONSERVATION ("the Minister")

WHEREAS

A Section 77 of the Reserves Act 1977 provides that:

- i The Minister may agree with any owner or lessee of land that all or part of the land should be managed so as to preserve the natural environment or landscape amenity or wildlife or freshwater life or marine life habitat or historical value of the land.
- ii The terms of such agreement may be recorded in a Conservation Covenant which is registered against the title to the land or the lease so as to bind the land or the lease and its owner or lessee to the performance of the terms of the agreement, in perpetuity or for such other period as the parties may agree.

B The Landholders are registered as proprietors of the land firstly described in the schedule ("the land") in the shares of 2/3 to the said John Charles Perriam and 1/3 to the said Heather Lorna Perriam.

C The Landholders and the Minister have agreed that the land be managed with the following conservation objectives:

- i Protecting and enhancing the natural character of the land with particular regard to the natural functioning of ecosystems and to the native flora and fauna in their diverse communities and dynamic inter-relationships with their earth substrate and water courses and the atmosphere.
- ii Protecting the land as an area representative of a significant part of the ecological character of the Dunstan Ecological District as referred to in the draft survey report for the Protected Natural Areas Programme for the Lindis Pisa and Dunstan Ecological Districts dated February 1987.
- iii Maintaining the landscape values of the land as referred to in the "Application for exchange of property rights" submitted to the Commissioner of Crown Lands.
- iv Maintaining the historic values of the land as referred to in "The rich fields of

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Bendigo" by Jill Hamel February 1993.

NOW THEREFORE THIS DEED WITNESSES that in accordance with Section 77 of the Reserves Act 1977 the Landholders and the Minister **MUTUALLY COVENANT** that the land shall be managed for the purposes and objectives listed in recital C above, and in particular on the following conditions:

1 THE Landholders may graze the land to an extent consistent, in the opinion of the Minister, with the objectives of this Deed and will maintain all fences and gates on the land and its boundary in a good stockproof condition in order to facilitate proper grazing control.

The Minister may at any time monitor native vegetation in order to determine what trends are occurring in the condition of native vegetation.

The Minister may also at any time monitor historic sites.

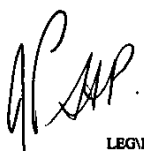
2 THE Landholders will, so far as is practicable:

- a Keep the land free from gorse broom sweetbriar and all other noxious plants and in particular shall comply with the provisions of and any notices given under the Noxious Plants Act 1978 and the Biosecurity Act 1993.
- b Keep the land free from rabbits and vermin and in particular comply with the provisions of and any notices given under the Agricultural Pests Destruction Act 1967 and the Biosecurity Act 1993.
- c Keep the land free from rubbish and other unsightly or offensive material.

HOWEVER the Landholders may request assistance from the Minister in meeting these obligations if they impose a substantial burden in excess of the legal obligations that would have applied in the absence of this Deed.

3 (1) SUBJECT to the succeeding provisions of this clause the Landholders will not carry out or allow to be carried out without the Minister's prior approval:

- a The erection of any fence building structure or other improvements near historic sites on the land whether for the Landholders' purposes or for other private or public purposes.
- b Any cultivation earthworks or other soil disturbance on the land near historic sites.
- c Any tree planting on the land near historic sites.
- d Any prospecting or mining for minerals coal or other deposit on or under the land.



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(2) IN this covenant "historic site" has the same meaning as the words "historic place" in the Historic Places Act 1993.

(3) THE Landholders at any time may remove some woody vegetation on the land secondly described in the schedule but only after receiving the Minister's prior approval.

(4) THE Minister will have regard to the objectives of this Deed when considering any request for approval under this clause and will not unreasonably decline approval.

4 THE Minister may exercise his right to object to any mining licence application which conflicts with the objectives of this Deed.

5 THE Landholders will permit members of the public access through the land on the existing formed Thomsons Gorge Road and from Thomsons Gorge Road up to Mt Moka and the special lease area more or less along the alignment of the existing track on or about the legal road line.

6 THE Landholders grant to the Minister and any officer or duly authorised agent of the Minister a right of access onto the land with or without vehicles motor vehicles machinery and implements of any kind for the purposes of examining and recording the condition of the land or for carrying out restoration protection or maintenance work on the land consistent with the objectives set out in this Deed; HOWEVER in exercising this right the Minister and officers or agents of the Minister will consult with the Landholders in advance and have regard to all reasonable requests.

7 THE Landholders will meet all survey costs required to complete the registration of this Deed.

8 (1) THE Landholders will notify the appropriate Fire Authority (District Council or Minister as the case may be - see section 2 Forest and Rural Fires Act 1977) in the event of wildfire threatening the land.

(2) IF the Minister is not the Fire Authority for the land under threat the Minister will render assistance to the Fire Authority in suppressing the fire if requested to do so or if a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977 is in place between the Minister and the Fire Authority.

(3) THIS assistance will be at no cost to the Landholders unless the Landholders are

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responsible for the wildfire through wilful action or negligence (which includes the case where the wildfire is caused by the escape of a permitted fire due to non-adherence to the conditions of the permit).

9 **WITH** regard to that part of the land thirdly described in the schedule known as the Rise and Shine Creek area:

- a The Landholders will at all times allow the public to have foot access across that part of the land for the purpose of gaining access to historic mining sites located on it.
- b The Lessees and employees of the Department of Conservation may at any time remove woody vegetation around any historic site located on it.
- c The Minister may at any time erect interpretation signs on that part of the land but shall first consult the Lessees regarding the wording and position of the signs.
- d The Landholders will not use that part of the land for forestry and will not construct tracks on it.

10 **IT** is acknowledged that the principal historic values outside the Rise and Shine Creek area comprise three stone buildings near Ardgour Road, stone yards near Shepherds Creek, the hotel foundations and environs and the bakery in the Town of Bendigo, the dam and dam keeper's hut at the head of Aurora Creek, various mining sites in Perrys Creek and the environs, and stone yards near Devils Creek.

11 **THE** Minister may:

- a Provide to the Landholders from time to time and at any time upon request by the Landholders such technical advice or assistance as may be necessary or desirable to assist in meeting the objectives set out in this Deed.
- b Change individual conditions of this covenant by mutual agreement with the Landholders should there be any change in circumstances in the future.
- c Prepare in consultation with the Landholders a joint plan for the management of the land designed to implement the objectives of this Deed to the mutual satisfaction of the parties.

12 **FOR** the avoidance of doubt:

- a The covenants contained in this Deed shall bind the Landholders and the Landholders' heirs executors successors and assigns in perpetuity.
- b The Landholders will not be personally liable in damages for any breach of



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covenant committed after they have parted with all interest in the land in respect of which such a breach occurs.

- c Where there is more than one owner of the leasehold or fee simple title to the land, the covenants contained in this Deed shall bind each owner jointly and severally.
- d Where the Landholders is a company the covenants contained in this Deed shall bind a receiver liquidator statutory manager or statutory receiver. Where the Landholders is a natural person this Deed shall bind the Official Assignee. In either case this Deed binds a mortgagee in possession.
- e The reference to any Act in this Deed extends to and includes any amendment to, or re-enactment of that Act.
- f Any notice required to be given in terms of this Deed shall be sufficiently given if made in writing and served as provided in Section 152 of the Property Law Act 1952 and shall be sufficiently given if actually received by the party to whom it is addressed or that party's solicitor.
- g Any notice required to be given by the Minister shall be sufficiently given if it is signed by the Conservator Department of Conservation Dunedin. Any notice required to be served upon the Minister shall be sufficiently served if delivered to the office for the time being of the Conservator Department of Conservation Dunedin.
- h Any dispute which arises between the Landholders and the Minister in any way relating to this Deed 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. If the Arbitration Act 1996 is used and the parties fail to agree on the person to be appointed as arbitrator the appointment shall be made by the president for the time being of the Otago District Law Society.

DATED the

18th

day of

August

~~1999~~ 2000



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SCHEDULE

FIRSTLY All those parcels of land situated in the Otago Land District containing A 4180.6398 hectares more or less being Sections 1, 2, 24, 29, 34, 36 and 38 SO 24641 and being all the land comprised and described in Certificate of Title Register No. (Otago Registry) and being B 3781.8363 hectares more or less being Sections 3/9 inclusive 11/16 inclusive 23, 27, 28, 37 and 39 SO 24641 and being all the land comprised and described in Certificate of Title Register No. (Otago Registry)

SECONDLY Section 2 SO 24641 containing 68.0339 hectares more or less

THIRDLY Sections 11 and 12 SO 24641 containing 490.3886 hectares

SIGNED by Ian Whitwell an officer of the)
Department of Conservation pursuant to a)
designation given to him by the Director-)
General of Conservation and dated the 30th)
day of June 1989 acting for and on behalf of)
the Minister pursuant to section 117 of the)
Reserves Act 1977 in the presence of:)

Witness: *JUSTITARY BEARD*

Occupation: *SOLICITOR*

Address: *DUNEDIN*

SIGNED by the said)
JOHN CHARLES PERRIAM and)
HEATHER LORNA PERRIAM)
in the presence of:)

Witness:

Occupation:

Address:

(B.A. MACGEORGE)

Waimate

GRANT of

Correct for the purposes of the Land Transfer
Act

CONSERVATION COVENANT

[REDACTED]
Solicitor for the Minister

pursuant to section 77 of the
Reserves Act 1977

[REDACTED] and
[REDACTED]
Covenantors

to

MINISTER OF CONSERVATION

Solicitor
Department of Conservation
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