



View Instrument Details

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Lodged By	Whale, Michaela Aimee
Instrument Type	Covenant (All types except Land covenants)

Toitu te
Land *whenua*
Information
New Zealand



Affected Computer Registers	Land District
SA65B/226	South Auckland

Annexure Schedule: Contains 14 Pages.

Signature

Signed by Sally Beryl Powdrell as Grantor/Grantee Representative on 04/02/2010 05:22 PM

*** End of Report ***

HERITAGE COVENANT UNDER THE HISTORIC PLACES ACT 1993

THIS DEED is made the *15th* day of *January* 20*10*

BETWEEN NEW ZEALAND HISTORIC PLACES TRUST, a body corporate under the provisions of the Historic Places Act 1993 (hereinafter called 'the Trust')

of the one part

AND TAURANGA CITY COUNCIL (hereinafter called 'the Owners')

of the other part

WHEREAS

- (i) The Owner is registered as proprietor of the land described in the First Schedule to this Covenant (hereinafter called 'the land') and upon which the building described in the Second Schedule to this Covenant (hereinafter called 'the building') is erected.
- (ii) The building is registered as a Category II historic place under the Historic Places Act 1993 in view of:
 - (a) its significance as an example of the early hydro electric stations built by local authorities in the first decades of the 20th century and its significance as the first New Zealand underground hydro generating station; and
 - (b) its historical associations with the early careers of distinguished engineers HW Climie and Lloyd Mandeno; and



- (d) its technological significance given the importance of the hydro-electric generating industry in New Zealand's development.
- (iii) The Trust considers and is satisfied that the building and its environs should be protected, conserved and maintained as an historic place.
- (iv) The Trust and the Owner have agreed to enter into a heritage covenant in respect of the land and building pursuant to the Historic Places Act 1993.

NOW THEREFORE THIS DEED WITNESSES AND THE PARTIES AGREE AND COVENANT WITH EACH OTHER AS FOLLOWS:

- 1 THE Owner agrees not to damage or demolish or permit the damage or demolition of the building or any part of the building. The Owner also agrees not to do or permit anything, or to undertake or permit any activity that in the opinion of the Trust will be detrimental to the building, its preservation, or to the appreciation or enjoyment of persons inspecting and viewing it.
- 2 THE Owner agrees that any proposed restoration, modification, removal, addition or alteration either to the exterior or interior of the building will require the prior written consent of the Trust. The Trust shall have full discretion as to whether or not to grant the consent and may impose conditions when giving its consent, which shall be adhered to by the Owner. The Trust will take into account the following factors when considering whether to grant its consent and on what conditions:
 - (a) the extent to which the proposed works could potentially compromise the architectural and historical integrity of the building; and
 - (b) the degree of proposed loss of the culturally significant fabric of the building, including the incremental effect of any previously approved works; and



- (c) the question of whether or not the proposed works could be reversed at a subsequent date; and
- (d) the likely effect of the proposed works on the visual appearance of the building, when viewed from appropriate publicly accessible vantage points in the locality; and
- (e) the desirability of:
 - (i) retaining the building as a working powerstation; and
 - (ii) reversing the adverse effect of certain previous interior modifications which detract from the character of the building, and
- (f) relevant provisions of the Building Act 1991; and
- (g) the necessity or otherwise of the proposed works as a means of ensuring that the building may continue to exist as a working powerstation; and
- (h) the extent to which the proposed works are deemed necessary to assist in the long-term conservation of the building; and
- (i) the likely effect of the proposed works on the structural integrity and earthquake resistance of the building, including the incremental effect of any previously approved works; and
- (j) relevant provisions of the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value (hereinafter called 'the Charter'), a copy of this Charter is the Third Schedule to this Covenant; and
- (k) any other factor that may appear relevant to the Trust in the circumstances.



3 THE Owner will at their own expense make every reasonable endeavour to maintain the building in substantial repair and condition, having regard to its architectural and historical significance and general condition at the date of this agreement. The Owner further agrees that all maintenance and conservation work undertaken on the culturally significant original fabric and fittings of the building shall be executed in a manner that is consistent with the provisions of the ICOMOS Charter.

4 THE Trust agrees that notwithstanding the provisions of Clause 3, it may consider, on application by the Owner, providing specialist conservation advice and financial assistance towards the cost of restoration and maintenance work on the building. This clause is contingent on the Trust's general policies on assistance to private property owners at the given time.

5 THE Owner agrees to manage the land on the basis that it constitutes an archaeological site in terms of section 2 of the Historic Places Act 1993 and consequently that the provisions of the Act and particularly section 10 of that Act apply, that is:

"10. Archaeological sites not to be destroyed, damaged, or modified — (1) Except pursuant to an authority granted under section 14 of this Act, it shall not be lawful for any person to destroy, damage, or modify, or cause to be destroyed, damaged, or modified, the whole or any part of any archaeological site, knowing or having reasonable cause to suspect that it is an archaeological site.

(2) Except as provided in section 15 or in section 18 of this Act, it shall not be lawful for any person to carry out any archaeological investigation that may destroy, damage, or modify any archaeological site."

The Owner shall comply with the Historic Places Act 1993.

6 THE Owner will not effect any subdivision within the meaning of the Resource Management Act 1991 of the land without the prior written consent of the Trust



irrespective of whether or not such subdivision fully complies with relevant provisions of that Act. The Trust shall have full discretion as to whether or not to grant the consent and may impose conditions when giving its consent that shall be adhered to by the Owner. The Trust will take into account the following factors when considering whether to grant its consent and on what conditions:

- (a) the probable effect of the particular subdivision proposal and associated works on the setting and appearance of the building; and
- (b) the desirability or otherwise of the particular subdivision proposal as a means of assisting in the long-term conservation of the building; and
- (c) any other factor that may appear relevant to the Trust in the circumstances.

7 THE Owner agrees not to erect any additional building or structure exceeding six (6) square metres in floor area on the land without the prior written consent of the Trust. Buildings or structures of a temporary nature erected for a maximum duration of two (2) calendar months at any particular time are exempt from this requirement. The Trust shall have full discretion as to whether or not to give its consent and may impose conditions when giving its consent that shall be adhered to by the Owner. The Trust will take into account the following factors when considering whether to grant its consent and on what conditions:

- (a) the likely impact of the proposed building or structure and any ancillary services on the setting and appearance of the existing building; and
- (b) the likely effect of the proposed building or structure on views of the existing building from appropriate publicly accessible vantage points in the locality; and
- (c) whether or not the architectural style, scale, building materials and exterior decoration of the proposed additional building or structure are broadly compatible with the existing building; and



- (d) whether or not the proposed building or structure is clearly ancillary in size, form and function to the existing building; and
- (e) the desirability or otherwise of the proposed additional building or structure as a means of assisting in the long-term conservation of the existing building; and
- (f) any other factor that may appear relevant to the Trust in the circumstances.

8 The Owner acknowledges that any proposal to erect signage of any kind whatever in the immediate environs of the building will require the prior written consent of the Trust. The Trust shall have full discretion as to whether or not to grant the consent and may impose conditions when giving its consent that shall be adhered to by the Owner. The Trust will take into account the following factors when considering whether to grant its consent and on what conditions:

- (a) the desirability of ensuring that rather than being directly affixed to the building itself, all such signage is either:
 - (i) constructed in a free-standing form; or
 - (ii) attached to, or incorporated in the design of, an appropriately designed fence; and
- (b) the desirability of ensuring the overall amount of signage is kept to an absolute minimum and does not exert an unduly dominant effect on the appearance of the building; and
- (c) the desirability of ensuring that the design, materials and appearance of any such signage is not incongruous with the architectural style of the building.



- (d) In the event that there is no other option but to attach signage to the building, it must be affixed in such a way that it causes no damage whatsoever to the building and that it is easily removable.

9 THE Owner will allow access to the Trust, its servants, and agents, to inspect the land and the building at reasonable times and upon reasonable notice for the purpose of ensuring compliance with the provisions of this agreement.

10 THE Owner will permit the public to have access to the land and the building for the purpose of inspecting and viewing both the interior and exterior of the building and its setting, provided that:

- (a) such visits will be organized by the Tauranga District Council as owner and will take the form of guided tours as required by demand.

11 THE Owner will notify the Trust of any change of ownership or control of all or any part of the land, and will supply the Trust with the name and address of the new owner or lessee.

12 THE Owner shall ensure that any sale or disposition of any of the land, prior to registration of this heritage covenant by the District Land Registrar, shall be expressly subject to the purchaser or transferee entering into a heritage covenant with the Trust on the same terms and conditions. Any charge over the land granted by the Owner shall be made expressly subject to the terms of this heritage covenant.

13 THE Owner will not give to any third party the right of occupancy or possession of any of the land without first ensuring that the provisions of this heritage covenant will be complied with during the occupancy or possession by the third party.

14 IN THE EVENT of the building or any part of it being damaged or destroyed from any cause whatever the Owner agrees to notify the Trust immediately. If the Trust determines, at its own discretion, that it is not practicable or desirable to repair, restore or reinstate the damage, the Trust shall advise the Owner of its



decision in that regard. Upon that advice, all obligations of the Trust and the Owner under this Deed in respect of the building or part of the building so damaged or destroyed shall cease.

15 FOR the avoidance of doubt:

- (a) the covenants contained in this Deed will bind the Owner and the Owner's heirs, executors, successors and assigns in perpetuity; and
- (b) the Owner will not be personally liable for damages for any breach of covenant committed after she has parted with all interest in the land in respect of which such a breach occurs; and
- (c) where there is more than one owner of the fee-simple title to the land, the covenants contained in this Deed will bind each owner jointly and severally; and
- (d) where the owner is a company the covenants contained in this Deed will bind a receiver, liquidator, statutory manager or statutory receiver. Where the owner is a natural person this Deed will bind the Official Assignee. In either case this Deed binds a mortgagee in possession; and
- (e) the reference to any Act or Charter in this Deed extends to and includes any amendment to or re-enactment of that Act or revision of that Charter; and
- (f) any dispute which may arise between the Owner and the Trust relating to the legal interpretation of this Deed may be resolved by referring the dispute to an arbitrator acceptable to both parties and appointed in accordance with the provisions of the Arbitration Act 1996 as from time to time amended or replaced, whose decision shall be final.

IT is acknowledged that this covenant is entered into pursuant to the provisions of section 6 of the Historic Places Act 1993.



EXECUTED by the Parties:


THE COMMON SEAL)

of NEW ZEALAND)

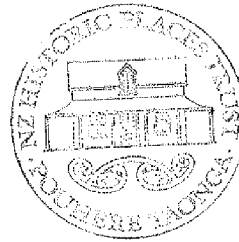
HISTORIC PLACES)

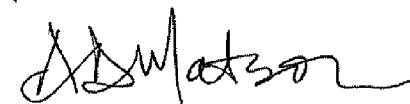
TRUST was hereunto)

affixed in the presence of:)



Board Member





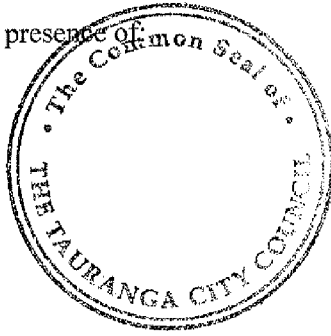
Board Member

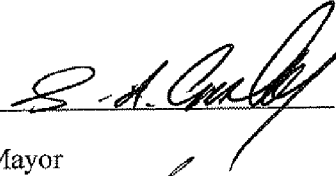
SIGNED BY THE SAID

Tauranga City Council

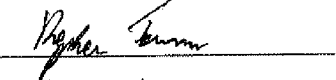
By the affixing of its common seal

in the presence of





Mayor



Chief Executive

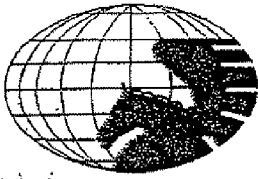
SCHEDULES

- 1 The land.
- 2 The building.
- 3 ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value.

FIRST SCHEDULE

An estate in fee-simple in all that parcel of land containing 5.6724 hectares more or less being Lot 1 Deposited Plan South Auckland 82484, Lot 1 Deposited Plan South Auckland 82722 and Section 10-11 block VI Otanewainuku survey District and being more particularly comprised and described in Certificate of Title 65B/226 (South Auckland Land Registry).





ICOMOS NEW ZEALAND CHARTER FOR THE CONSERVATION OF PLACES OF CULTURAL HERITAGE VALUE

PREAMBLE

New Zealand retains a unique assemblage of places of cultural heritage value relating to its indigenous and its more recent peoples. These areas, landscapes and features, buildings, structures and gardens, archaeological and traditional sites, and sacred places and monuments are treasures of distinctive value. New Zealand shares a general responsibility with the rest of humanity to safeguard its cultural heritage for present and future generations. More specifically, New Zealand peoples have particular ways of perceiving, conserving and relating to their cultural heritage.

Following the spirit of the International Charter for the Conservation and Restoration of Monuments and Sites (the Venice Charter 1966), this charter sets out principles to guide the conservation of places of cultural heritage value in New Zealand. It is intended as a frame of reference for all those who, as owners, territorial authorities, tradespeople or professionals, are involved in the different aspects of such work. It aims to provide guidelines for community leaders, organisations and individuals concerned with conservation issues. It is a statement of professional practice for members of ICOMOS New Zealand.

Each section of the charter should be read in the light of all the others. Definitions of terms used are provided in section 22.

Accordingly this charter has been adopted by the New Zealand National Committee of the International Council on Monuments and Sites at its meeting on 7 March 1993.

1. THE PURPOSE OF CONSERVATION

The purpose of conservation is to care for places of cultural heritage value, their structures, materials and cultural meaning. In general, such places:

- (i) have lasting values and can be appreciated in their own right;
- (ii) teach us about the past and the culture of those who came before us;

(iii) provide the context for community identity whereby people relate to the land and to those who have gone before;

(iv) provide variety and contrast in the modern world and a measure against which we can compare the achievements of today; and

(v) provide visible evidence of the continuity between past, present and future.

2. INDIGENOUS CULTURAL HERITAGE

The indigenous heritage of Maori and Mōriori relates to family, hapu and tribal groups and associations. It is inseparable from identity and well-being and has particular cultural meanings.

The Treaty of Waitangi is the founding document of our nation and is the basis for indigenous guardianship. It recognises the indigenous people as exercising responsibility for their treasures, monuments and sacred places. This interest extends beyond current legal ownership wherever such heritage exists. Particular knowledge of heritage values is entrusted to chosen guardians. The conservation of places of indigenous cultural heritage value therefore is conditional on decisions made in the indigenous community, and should proceed only in this context. Indigenous conservation precepts are fluid and take account of the continuity of life and the needs of the present as well as the responsibilities of guardianship and association with those who have gone before. In particular, protocols of access, authority and ritual are handled at a local level. General principles of ethics and social respect affirm that such protocols should be observed.

3. CONSERVATION PRACTICE

Appropriate conservation professionals should be involved in all aspects of conservation work. Indigenous methodologies should be applied as appropriate and may vary from place to place. Conservation results should be in keeping with their cultural content. All necessary consents and permits should be obtained.



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Conservation projects should include the following:

- (i) definition of the cultural heritage value of the place, which requires prior researching of any documentary and oral history, a detailed examination of the place, and the recording of its physical condition;
- (ii) community consultation, continuing throughout a project as appropriate;
- (iii) preparation of a plan which meets the conservation principles of this charter;
- (iv) the implementation of any planned work; and
- (v) the documentation of any research, recording and conservation work, as it proceeds.

GENERAL PRINCIPLES

4. CONSERVATION METHOD

Conservation should:

- (i) make use of all relevant conservation values, knowledge, disciplines, arts and crafts;
- (ii) show the greatest respect for, and involve the least possible loss of, material of cultural heritage value;
- (iii) involve the least degree of intervention consistent with long term care and the principles of this charter;
- (iv) take into account the needs, abilities and resources of the particular communities; and
- (v) be fully documented and recorded.

5. RESPECT FOR EXISTING EVIDENCE

The evidence of time and the contributions of all periods should be respected in conservation. The

material of a particular period may be obscured or removed if assessment shows that this would not diminish the cultural heritage value of the place. In these circumstances such material should be documented before it is obscured or removed.

6. SETTING

The historical setting of a place should be conserved with the place itself. If the historical setting no longer exists, construction of a setting based on physical and documentary evidence should be the aim. The extent of the appropriate setting may be affected by constraints other than heritage value.

7. RISK MITIGATION

All places of cultural heritage value should be assessed as to their potential risk from any natural process or event. Where a significant risk is determined, appropriate action to minimise the risk should be undertaken. Where appropriate, a risk mitigation plan should be prepared.

8. RELOCATION

The site of an historic structure is usually an integral part of its cultural heritage value. Relocation, however, can be a legitimate part of the conservation process where assessment shows that:

- (i) the site is not of associated value (an exceptional circumstance); or
- (ii) relocation is the only means of saving the structure; or
- (iii) relocation provides continuity of cultural heritage value.

A new site should provide a setting compatible with cultural heritage value.

9. INVASIVE INVESTIGATION

Invasive investigation of a place can provide knowledge that is not likely to be gained from any other source. Archaeological or structural investigation can be justified where such evidence is about to be lost, or where knowledge may be significantly extended, or where it is necessary to establish the existence of material of cultural heritage value, or where it is necessary for conservation work. The examination should be



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carried out according to accepted scientific standards. Such investigation should leave the maximum amount of material undisturbed for study by future generations.

10. CONTENTS

Where the contents of a place contribute to its cultural heritage value, they should be regarded as an integral part of the place and be conserved with it.

11. WORKS OF ART AND SPECIAL FABRIC

Carving, painting, weaving, stained glass and other arts associated with a place should be considered integral with a place. Where it is necessary to carry out maintenance and repair of any such material, specialist conservation advice appropriate to the material should be sought.

12. RECORDS

Records of the research and conservation of places of cultural heritage value should be placed in an appropriate archive and made available to all affected people. Some knowledge of places of indigenous heritage value is not a matter of public record, but is entrusted to guardians within the indigenous community.

CONSERVATION PROCESSES

13. DEGREES OF INTERVENTION

Conservation may involve, in increasing extent of intervention: non-intervention, maintenance, stabilisation, repair, restoration, reconstruction or adaptation. Where appropriate, conservation processes may be applied to parts or components of a structure or site.

Re-creation, meaning the conjectural reconstruction of a place, and replication, meaning to make a copy of an existing place, are outside the scope of this charter.

14. NON-INTERVENTION

In some circumstances, assessment may show that any intervention is undesirable. In particular, undisturbed constancy of spiritual association may be more important than the physical aspects of some places of indigenous heritage value.

15. MAINTENANCE

A place of cultural heritage value should be maintained regularly and according to a plan, except in circumstances where it is appropriate for places to remain without intervention.

16. STABILISATION

Places of cultural heritage value should be protected from processes of decay, except where decay is appropriate to their value. Although deterioration cannot be totally prevented, it should be slowed by providing stabilisation or support.

17. REPAIR

Repair of material or of a site should be with original or similar materials. Repair of a technically higher standard than the original workmanship or materials may be justified where the life expectancy of the site or material is increased, the new material is compatible with the old and the cultural heritage value is not diminished. New material should be identifiable.

18. RESTORATION

Restoration should be based on respect for existing material and on the logical interpretation of all available evidence, so that the place is consistent with its earlier form and meaning. It should only be carried out if the cultural heritage value of the place is recovered or revealed by the process.

The restoration process typically involves reassembly and reinstatement and may involve the removal of accretions.

19. RECONSTRUCTION

Reconstruction is distinguished from restoration by the introduction of additional materials where loss has occurred. Reconstruction may be appropriate if it is essential to the function or understanding of a place, if sufficient physical and documentary



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evidence exists to minimise conjecture, and if surviving heritage values are preserved. Reconstruction should not normally constitute the majority of a place. Generalised representations of typical features or structures should be avoided.

20. ADAPTATION

The conservation of a place of cultural heritage value is usually facilitated by it serving a socially, culturally or economically useful purpose. In some cases, alterations and additions may be acceptable where they are essential to continued use, or where they are culturally desirable, or where the conservation of the place cannot otherwise be achieved. Any change, however, should be the minimum necessary and should not detract from the cultural heritage value of the place. Any additions and alterations should be compatible with original fabric but should be sufficiently distinct that they can be read as new work.

21. INTERPRETATION

Interpretation of a place may be appropriate if enhancement of public understanding is required. Relevant protocol should be complied with. Any interpretation should not compromise the values, appearance, structure or materials of a place, or intrude upon the experience of the place.

22. DEFINITIONS

For the purposes of this charter:

adaptation means modifying a place to suit it to a compatible use, involving the least possible loss of cultural heritage value

conservation means the processes of caring for a place so as to safeguard its cultural heritage value

cultural heritage value means possessing historical, archaeological, architectural, technological, aesthetic, scientific, spiritual, social, traditional or other special cultural significance, associated with human activity

maintenance means the protective care of a place

material means physical matter which is the product of human activity or has been modified by human activity

place means any land, including land covered by

water, and the airspace forming the spatial context to such land, including any landscape, traditional site or sacred place, and anything fixed to the land including any archaeological site, garden, building or structure, and any body of water, whether fresh or seawater, that forms part of the historical and cultural heritage of New Zealand

preservation means maintaining a place with as little change as possible

reassembly (anastylosis) means putting existing but dismembered parts back together

reconstruction means to build again in the original form using old or new material

reinstatement means putting components of earlier material back in position

repair means making good decayed or damaged material

restoration means returning a place as nearly as possible to a known earlier state by reassembly, reinstatement and/or the removal of extraneous additions

stabilisation means the arrest of the processes of decay

structure means any building, equipment, device or other facility made by people and which is fixed to the land

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BILINGUAL TEXT

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