

HANMER HERITAGE FOREST TRUST

Charitable Trust Deed

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THIS DEED is made the *eighth* day of *December 2001*.

PARTIES:

- 1** *William Brooke Dawson*
of 29 Harrogate Street, Hanmer Springs

- 2** *Roger Brian Keey*
of 24 Torquay Terrace, Hanmer Springs

BACKGROUND

- A** The parties to this Deed with to establish a charitable trust in New Zealand (“the Trust”) for the purposes described in Clause 3 of this Deed and to give effect to such desire and at the same time giving to the Board the sum of *one hundred* dollars (\$100).

- B** The parties have agreed to enter into this Deed specifying the purposed of the Trust and providing for its control and government.

THIS DEED WITNESSES

1. Name

Hanmer Forest Heritage Trust (hereinafter called the “Trust”), a society incorporated in New Zealand under the Charitable Trusts Act 1957.

2. Office

The office of the Trust shall be in such place in Hanmer Springs as the Board of Trustees may determine.

3. Purposes

A Trust beneficial to the community in regard to the recreational, heritage, educational and scientific values (hereafter called the “public values”) of areas set out below:

- (a) To preserve and manage the public values of the former Crown Forest Recreation Reserve known as the Hanmer Heritage Forest (which is legally described as Lot 6 DP62464 containing approximately 203.4 hectares of land, and hereafter called the “Heritage Forest”); and
- (b) to promote the preservation of the public values of the wider Hanmer Forest (hereafter called the “Forest”) and the areas therein covenanted under the Crown Forests Act 1989; and
- (c) to preserve and manage the public values of the adjacent public lands and reserved (hereafter called the “Designated Areas”) for public recreation.

4. Objectives

- 4.1** The Trust will promote the retention of the public values associated with the Heritage Forest and seek through the Crown the return of the land on which it stands to public ownership.
- 4.2** The Trust will actively promote the retention of the Crown Forest Covenants and adherence to the conditions set out within them particularly as they relate to the Heritage Forest.
- 4.3** The Trust will seek to promote the retention and securing of public access in perpetuity to the Forest, subject only to restrictions relation to public safety including fire, risk and health and safety.
- 4.4** The Trust will encourage and promote wise stewardship and the adoption of sound management techniques within the Forest that take into proper account the heritage, scientific, recreational and educational values existing within the area, while recognising and acknowledging the Forest’s commercial use.
- 4.5** The Trust will encourage and promote opportunities and activities, which will add to the enjoyment of those visiting and using the Forest, provided those do not adversely impact on the public values or on the wise commercial use of the Forest.
- 4.6** The Trust will encourage active participation by business, the residents of Hanmer springs, Te Runanga o Ngai Tahu, the Department of Conservation and Hurunui District Council in promoting the values of the Forest as an attraction for residents and visitors in its own right.
- 4.7** The Trust will advise on and manage the Heritage Forest and Designated Areas in agreement with the landholders and any leaseholders of the forest assets, on such terms as shall be mutually agreed but in accordance with all existing covenants and restrictions as at 1 January 2000, for the sole purpose of maintaining and enhancing the forest values for the conservation of forest heritage, public recreation, education, soil and water conservation and woody biodiversity of the area.

5. Tangata whenua

In attaining its purposes the Trust shall recognise the views and expectations of tangata whenua.

6. Structure of Trust

The Trust shall be administered by a Board of Trustees (“the Board”) who shall be accountable to, and elected by, members of the Trust.

7. Members of Board

7.1 Numbers

The Board shall consist of not less than 5 members nor more than 7 members.

7.2 Membership of the Board

The signatories to this Deed shall be the first Board and subsequently the Board shall be elected at each annual meeting of the Trust.

7.3 Retirement of Board.

The Board shall retire at each annual general meeting, but shall be eligible for re-election at the same and subsequent meetings.

7.4 Nomination to Board

Nomination for a position on the Board shall be by way of notice of nomination in writing endorsed with the consent of the nominee and given to the Secretary not less than twenty-four hours before the time fixed for the annual general meeting. If there be insufficient nominations to fill the vacant positions on the Board, oral nominations may be received at the annual general meeting provided that no member shall be elected who has not consented to being nominated.

7.5 Vacancies

Subject to clause 7.1, the Board shall have the power to co-opt further members on the Board and to fill any casual vacancy on the Board until the next annual general meeting.

7.6 Name of Board

The name of the Board shall be the "Hanmer Heritage Forest Trust Board".

8. Proceedings of Board

8.1 Meetings

The Board shall meet at least 4 times per year at places it shall determine. All members shall be one vote, except as restricted by Clause 8.2 in the case of appointed executive members.

8.2 Officers

The Board shall appoint from its number its President, Secretary and Treasurer for a two-year term each, but the Secretary and Treasurer may be appointed from outside the membership of the Board. Such appointed executive members may attend Board meetings without having voting rights thereon. All office-bearers may be re-appointed for successive terms, except in the case of the President whose appointment may only be renewed for one further term.

8.3 President

The President shall preside at all meetings of the Board at which she or he is present. In the absence of the President from any meeting, the members present shall appoint one of their number to preside at that meeting.

8.4 Quorum

At any meeting of the Board a majority of members shall form a quorum, and no business shall be transacted unless a quorum of present.

8.5 Voting

All questions before the Board shall be decided by consensus. However, whenever a consensus decision cannot be reached on a question, it shall, unless otherwise specified in this Deed, be put as a motion to be decided by a majority of votes. If voting is tied, the motion shall be lost.

8.6 Minutes

The Secretary shall keep minutes of all Board meetings which shall be available for inspection by Board members at reasonable times.

9. Powers of Board

9.1 General and specific powers

In addition to the powers implied by the general law of New Zealand or contained in the Trustee Act 1956, the powers which the Board may exercise in order to carry out its charitable objects are as follows:

- (a) to use the funds of the Trust as the Board thinks necessary or proper in payment of the costs and expenses of the Trust, including the employment of professional advisers, agents, officers and staff as appears necessary or expedient; and
- (b) to purchase, take on lease or in exchange or hire or otherwise acquire any land or personal property and any rights or privileges which the Board thinks necessary or expedient for the purpose of attaining the objects of the Trust, and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid; and
- (c) to carry on any business; and
- (d) to invest surplus funds in any way permitted by law for the investment of Trust funds and upon such terms as the board thinks fit; and
- (e) to borrow or raise money from time to time, with or without security, and upon such terms as to priority and otherwise as the Board thinks fit; and
- (f) to do all things as may from time to time be necessary or desirable to enable the Board to give effect to and to attain the charitable purposes of the Trust.

9.2 Incorporation

The Board is empowered to seek incorporation in accordance with the provisions of the Charitable Trusts Act 1957.

9.3 Employment

Under clause 9.1(a) the Board may employ as agents, officers and staff, persons who are members of the Board.

10. Benefit for charitable purposes

10.1 Application

Any income, benefit or advantage shall be applied to the charitable purposes of the Trust.

10.2 Improvement to Recreational Forest Assets.

Any improvement in forest assets are to be for the sole benefit of the community in accordance with the purposes of the Trust.

10.3 Licences to use recreational assets

The Trust may issue licences for the use of recreational forest assets, subject to the provisions of Clause 4.7, on such terms as the Board shall determine, provided such use of not contrary to objectives of the Trust.

10.4 Influence

No member of the Trust or person associated with a member of the Trust shall participate in, or materially influence, any decision made by the Trust in respect of payment to or on behalf of that member or associated persons of any income, benefit or advantage whatsoever, except where that income, benefit or advantage is derived from:

- (a) professional services to the Trust rendered in the course of business charged at no greater rate than current market rates; or
- (b) interest on money lent at no greater rate than current market rates.
- (c) Any such income shall be reasonable and relative to that which would be paid in an arms length transaction (being open market value).

10.5 Entrenchment

The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.

11. Finance

11.1 True and fair accounts.

The Board shall keep true and fair accounts of all money received and expended.

11.2 Audit

The Board shall, as soon as practicable after the end of every financial year of the Board, cause the accounts of the Board for that financial year to be audited by an accountant appointed by the Board for that purpose and the Board shall present the audited accounts to the annual general meeting of the Trust together with an estimate of income and expenditure for the current year.

11.3 Cheques

Monies belonging to the Trust shall be deposited in a bank or banks or invested in such a manner as the Board may determine. Cheques drawn by the Trust shall be signed by any two of the President, Secretary or Treasurer or any one other Board member authorised by the Board.

11.4 Employment

The Trust may use its funds as the Board thinks necessary or proper in payment of its expenses, including the employment and dismissal of counsel, solicitors, agents, officers and staff, according to the principles of good employment and the Employment Relations Act 2000 or any subsequent enactment.

12. Power to delegate

12.1 Powers

The Board may, from time to time, appoint any committee and may delegate, in writing, any of its powers and duties to any such committee or to any person, and the committee or person as the case may be, may without confirmation by the Board exercise or perform the delegated powers or duties in the like manner and with the same effect as the Board could itself have exercised or performed them.

12.2 Delegate bound

Any committee or person to whom the Board has delegated powers or duties shall be bound by the charitable terms of the Trust.

12.3 Delegate revocable

Every such delegation shall be revocable at will, and no such delegations shall prevent the exercise of any power or the performance of any duty by the Board.

12.4 Delegate need not be a Board member

It shall not be necessary that any person who is appointed to be a member of any such committee, or to whom any such delegation is made, be a member of the Board.

13. Common seal

The Board shall have a common seal which shall be kept in the custody of the Secretary, or such other officer as shall be appointed by the Board, and shall be used only by authority of the Trustees previously given at a meeting of the Board to any document requiring execution by the Trustees. Each such use of the Common Seal shall be performed in the presence of, and accompanied by the signatures of, at least two Trustees and shall be sufficient evidence of the authority of the Trustees. Any document is to be available to see or enquire as to the authority under which any document is sealed and in whose presence it was sealed.

14. Membership of Trust

Any person who, or any group or organisation, including any family group which, agrees with the purposed of the Trust may, subject to the Board's approval, become a member of the Trust by application in writing and upon payment of a subscription (if any).

15. Subscription

The Board may require members of the Trust to pay a subscription of such amount or amounts as may from time to time be fixed by resolution in general meeting.

16. Resignation of members

16.1 Resignation by notice

Any member of the Trust may resign membership at any time by giving to the Secretary notice in writing to that effect and such notice, unless otherwise expressed, shall take effect immediately.

16.2 Resignation deemed

Any member who fails to pay the annual subscription on or before the expiration of twelve months after it has become due shall be deemed to have resigned membership.

17. Expulsion of members

17.1 Notice of complaint

Any person may make a complaint to the Board that the conduct of a member of the Trust is or has been injurious to the character of the Trust. Every such complaint shall be in writing and addressed to the Secretary.

17.2 Meeting

If the Board considers that there is sufficient substance to the complaint, it may invite the member to attend a meeting of the Board and to offer a written or oral explanation of the member's conduct 7 days within notice.

17.3 Notice of meeting

The Board shall give the member at least 7 days written notice of the meeting. The notice shall:

- (a) Sufficiently inform the member of the complaint so that the member can offer an explanation of the member's conduct; and
- (b) Inform the member that, if the Board is not satisfied with the member's explanation, the Board may expel the member from the Trust.

17.4 Board may expel

If, in the meeting, the Board decided to expel the member from the Trust, the member shall cease to be a member of the Trust.

17.5 Appeal

A member expelled by the Board may, within 14 days, give written notice of appeal to the Secretary. The Secretary shall then call a special general meeting to take place within 21 days of receipt of the notice of appeal. If that meeting passes a resolution rescinding the expulsion, the member shall be reinstated immediately.

18. Annual general meeting

18.1 Time and place of meeting

The annual general meeting of the Trust shall be held each year in one of the months of February, March, April or May at such place, date and time as the Board shall determine.

18.2 Business of meeting

The annual general meeting shall carry out the following businesses:

- (a) receive the minutes of the previous annual general meeting and of any other special general meeting held since the last annual general meeting; and
- (b) receive the Trust's statement of accounts for the preceding year and an estimate of income and expenditure for the current year; and
- (c) receive reports from the Board and its committees; and
- (d) approve the Annual Management Plan, as provided in Clause 21; and
- (e) subject to Clause 7, elect members of the Board; and
- (f) fix the annual subscription (if any); and
- (g) consider and decide any other material which may properly be brought before the meeting.

19. Special general meeting

19.1 Secretary may call meeting

A special general meeting of the Board shall be called by the Secretary on receipt of a request in writing for such a meeting stating the reason for having the meeting and signed by not less than 10 member of the trust.

19.2 Meeting for appeal against expulsion

Subject to the provisions of Clause 15 a special general meeting of the Board shall be called by the Secretary for the purpose of hearing an appeal from an expelled member.

19.3 Notice of meeting

The prescribed notice called a special general meeting shall state, in general terms, the business for which the meeting is called and at that meeting only the business so stated shall be discussed.

20. Procedure for general meeting

20.1 Definition

In these rules the term 'general meeting' includes both an annual general meeting and special general meeting.

20.2 Notice of meeting

Fourteen days written notice of each general meeting shall be given to all members of the Trust. This notice shall state that the meeting is the annual general meeting or a special general meeting as the case may be and shall specify the place, date and time at which the meeting is to be held.

20.3 Quorum

Ten members of the Trust personally present or *fifty* per cent of the members, whichever is the less, shall constitute a quorum for a general meeting. A member that is a group or organisation shall be deemed to be personally present if it is represented at the meeting by its duly appointed nominee.

20.4 Chair

The President of the Trust or that person's nominee shall preside at each general meeting.

20.5 Voting

20.5.1 All questions at a general meeting shall be decided by consensus. However, if a consensus decision cannot be reached on any question, it shall, subject to Clause 20, be put as a motion to be decided by a majority of votes.

20.5.2 Each member shall have only one vote.

20.5.3 Voting shall be by show of hands.

20.5.4 If the voting is tied, the motion shall be lost.

21. Annual management plan

Subject to the provisions of Clause 4.7, the Board shall prepare for public comment and presentation for approval by the Annual General Meeting of the Trust a management plan in accordance with and budget for any works to be undertaken in the subsequent year. The annual plan shall contain projected activities and works within a five-year horizon and list authorised works not yet completed.

22. Alteration of deed

This Deed may be altered, added to, rescinded or otherwise amended by a resolution passed by two-thirds majority at a general meeting, provided that no such amendment shall:

- (a) detract from the exclusively charitable nature of the Trust or result in the distribution of its assets on winding up or dissolution for any purpose that is not exclusively charitable; or
- (b) be made to Clauses 11 or 24 unless it is first approved in writing by the Department of Inland Revenue.

23. Trust contracts

Contracts on behalf of the Trust may be made as follows:

- (a) A contract which if made by private persons would be by law required to be by deed may be made on behalf of the Trust by writing under the common seal of the Trust attested as referred to in Clause 13 of this Deed.
- (b) A contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged, may be made on behalf of the Board in writing signed by any person acting under its authority, express or implied.
- (c) A contract, which if made between private persons would by law be valid although made verbally only, and not reduced into writing, may be made verbally on behalf of the Board by any person acting under its authority, express or implied.

PROVIDED, HOWEVER, that no such contract shall be entered into by any person on behalf of the Trust except with the authority of a resolution passed by the Trust at a properly constituted meeting.

24. Disposition of surplus assets

If, either on the winding up, failure or dissolution of the Trust, or in the case of the Board having incorporated in accordance with the provisions of the Charitable Trusts Act 1957 (or other act passed in substitution for the same) on the liquidation of the Board or on its dissolution by the Registrar, there remains after payment of all of the Trust debts and liabilities any property or assets whatsoever, they shall be given or transferred to Trustees for carrying out charitable purposes within New Zealand similar to those set out in this Deed or be applied for such charitable purposes within New Zealand as the Board may, by resolution, determine at, before, or during the winding up, failure, dissolution or liquidation. If the Board is unable to make such decisions, such property shall be disposed in accordance with the directions of the Judge of the High Court pursuant to section 27 of the Charitable Trusts Act 1957 on the application of any member of the Board.