

CENTRAL OTAGO HERITAGE TRUST DEED
Amended 29 November 2023

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THIS DEED WITNESSES

1. **Name**

The name of the Trust shall be the "Central Otago Heritage Trust".

2. **Interpretation**

In the interpretation of this Deed unless inconsistent with the subject or content:

2.1 **"The Trustees"** means the Trustees for the time being of the Trust and unless expressly referring to Elected Trustees, or Co-opted Trustees, shall include all such Trustees.

2.2 **"Members"** means the Members of the Trust, comprising heritage groups and organisations listed in Schedule 1.

2.3 **"Trust Fund"** means the real and personal property from time to time belonging to or vested in or under the control or management of the Trustees or which shall in due course be vested in them.

2.4. **"Heritage"** is those things of value which we have inherited from past and present generations, care for in the present and wish to hand on for the enjoyment and benefit of future generations. Heritage includes:

Built heritage – the legacy of man-made buildings, structures, objects and associated stories and attributes;

Natural heritage – the legacy of our natural environment including its landscapes, rivers, lakes, streams and associated fauna, flora, biodiversity and associated myths, legends, history and other intangible attributes; and

Cultural heritage - comprises tangible components including artefacts, buildings trees, gardens, landscapes, historic places and material remnants, and intangible qualities such as folklore, language, music, dance, manners, memories, customs, traditions, histories and notions of identity.

2.5 **"Central Otago"** means the area administered by the Central Otago District Council.

3. **Office**

The office of the Trust shall be such place as the Trustees may determine.

4. **Acknowledgement of Trust**

The Trustees shall hold the Trust Fund and the income therefrom exclusively for the purposes of the Trust set out in clause 5 hereof, to the extent only that the purpose towards which such assistance or provision is directed in every such case is a charitable purpose in New Zealand and not otherwise.

5. **Purposes**

The purposes of the Trust are as follows:

5.1 To develop and manage a strategy for Central Otago's heritage which includes:

- * Natural heritage;
- * Built heritage; and
- * Cultural heritage

5.2 To facilitate the identification and preservation of local heritage through community projects and business and individual partnerships;

- 5.3 To collaborate with, and where appropriate, co-ordinate such agencies, groups and individuals in the development of heritage related activities as well as advance the promotion and protection of heritage in Central Otago;
- 5.4 To provide places and spaces for heritage expression;
- 5.5 Without restricting the scope of the foregoing, the purposes of the Trust shall include the sourcing, using and distribution of funding:
 - 5.5.1 To enable the identification and recording of key themes, stories, significant sites, buildings, natural heritage and objects that reflect Central Otago's heritage places and spaces of significance.
 - 5.5.2 To facilitate the protection, preservation, development and interpretation of themes, sites, natural heritage and objects consistent with the principles of the ICOMOS NZ Charter.
 - 5.5.3 To promote Central Otago's heritage for the enjoyment of Central Otago residents and domestic and international visitors.
 - 5.5.4 To facilitate research, discussion, education and interchange of information related to Central Otago's heritage.
 - 5.5.5 To carry on any other charitable purpose of benefit to Central Otago which may seem to the Trustees capable of being conveniently carried on or calculated directly or indirectly to advance the objects of this Deed.

6. Tangata Whenua

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

7. Income, benefit or advantage to be applied to charitable purposes.

- 7.1. Any income, benefit or advantage shall be applied to the charitable purposes of the Trust.
- 7.2. Subject to clause 7.3, any Trustee being a person engaged in any profession, business or trade shall be entitled to be paid all usual professional, business and trade charges for business transacted, time expended and all acts done by him or her or by an employee or partner of him or her in connection with the Trust including acts which a Trustee not being in any profession, business or trade could have done personally.
- 7.3. No Trustee, or person associated with a Trustee shall participate in, or materially influence, any decision made by the Trust in respect to the payment to or on behalf of that Trustee 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.
- 7.4. Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction.

8. Membership

- 8.1 The Members of the Trust are the heritage groups and organisations listed at Schedule 1. Additional groups and organisations which might contribute to the achievement of the Trust's purposes may apply or be invited by the Board, to become members. New members will be confirmed at the Annual Meeting.
- 8.2 The members are responsible for nominating and if necessary electing the Trustees.

9. Management of the Trust

- 9.1 The Trust shall be administered by a Board of Trustees ("the Board") the members of which shall be nominated and if necessary, be elected by the members at a General Meeting.
- 9.2 The name of the Board shall be the Central Otago Heritage Trust Board.
- 9.3 At no time shall the number of Trustees exceed eight.
- 9.4 Trustees shall be elected for a specific term not exceeding three years. When electing Trustees the members shall have regard to ensuring continuity of the Trust's management.
- 9.5 Subject to clause 9.3, the Board shall have the power to co-opt Trustees to fill elected Trustee vacancies occurring between Annual Meetings. These co-opted Trustees may form part of a quorum and will have voting rights.
- 9.6 The Board may also co-opt up to three additional Trustees to provide specialist advice. These co-opted Trustees will not form part of a quorum and will not have voting rights.
- 9.7 Each Trustee shall hold office for the term *determined as required by clause 9.4* unless he or she earlier:
- Resigns;
 - Dies;
 - Is declared bankrupt;
 - Has his or her property affairs managed under the *Protection of Personal and Property Rights Act 1988*; or
 - Becomes a "*patient*" for the purposes of the *Mental Health (Compulsory Assessment and Treatment) Act 1992*;
- 9.8 Any retiring Trustee shall be eligible for election or co-option.
- 9.9 A Central Otago District Liaison shall be appointed by the Central Otago District Council. He or she shall:
- a) be entitled to attend meetings of the Board;
 - b) not be a Trustee, shall not form part of a quorum and shall not have voting rights;
 - c) be entitled to report to Central Otago District Council on the activities of the Trust in such manner as the Council may require from time to time and any such report may include a copy of any minutes of the proceedings of the Board.

10. Annual Meeting of the Trust

- 10.1 An Annual Meeting of the Trust members shall be held each year at such time and place as may be determined by the Board. Twenty one day's notice of the Annual Meeting shall be given to the members.
- 10.2 The Annual Meeting will:
- a) Be chaired on behalf of the members by the current Board Chairperson or Board member appointed by the trustees for that purpose;
 - b) Receive and consider the Trustee's Annual Report;
 - c) Receive and consider the Trust's Annual Financial Statement;
 - d) Nominate and if necessary hold an election to fill Trustee vacancies;
 - e) Receive and consider Notices of Motion; and
 - f) Consider such other business as may be accepted by permission of the majority of heritage groups present.

11. Functions and Duties of the Board

The Board shall have the following functions and duties:

- 11.1 To control, administer and manage the property and affairs of the Trust.
- 11.2 To co-opt to the Board for such time as may be necessary, persons with qualifications and expertise the Board may require as detailed in clauses 9.5 and 9.6.
- 11.3 To appoint such agents, officers and employees and upon such terms, conditions and at such remuneration as the Board shall think fit and from time to time to remove and replace any persons so appointed.
- 11.4 To do all such things, not being contrary to law and not prohibited by this Deed, as shall or may be necessary or desirable in the opinion of the Board for the carrying out and performance of the objects of the Trust.
- 11.5 To report regularly on its activities to the Members listed in Schedule 1.
- 11.6 To do all such other things as shall be necessary or desirable in order to comply with the provisions of the Charitable Trusts Act 1957 and the Charitable Trusts Act 2005.

12. Meetings of the Board

Meetings of the Board shall be governed as follows:

- 12.1 At the first Board meeting after each Annual General Meeting of the Trust, the Board shall elect a Chairperson, Secretary and Treasurer who shall hold appointment until the next Annual General Meeting. The positions of Secretary and Treasurer may be Board members or co-opted members.
- 12.2 Ordinary meetings of the Board shall be held at such times during each year as the Trustees consider necessary for the carrying out of the Board's business at such times and places and in such a manner (including by audio, and audio visual or electronic communication) as it may determine and where and as convened by the Chair.
- 12.3 Unless the Chairperson determines otherwise, seven days' notice specifying the place, the day, and the time of any ordinary meeting and the general nature of the business, shall be given to the Trustees.

- 12.4 Notice of a meeting may be given by any means, including by telephone or by electronic means. Notice by letter addressed to a Trustee at his or her last known residential address will be deemed to have been given on the day following the posting of the letter.

13. Proceedings at Meetings of the Board

The proceedings at meetings of the Board shall be conducted as follows:

- 13.1 No business shall be transacted at any meeting unless there be personally present at the commencement of business, a quorum comprised of a majority of Trustees.
- 13.2 The Chairperson shall preside at all meetings of the Board at which he or she is present. In the absence of the Chairperson the Trustees shall appoint one of those present to preside at that meeting.
- 13.3 All questions before the Board shall be decided by consensus. Where a consensus cannot be reached, such questions shall, unless specified in this Deed, be put as a motion to be decided by a majority of the Trustees present. In the case of an equality of votes the motion shall be lost.
- 13.4 Minutes recording all decisions made and business transacted at every meeting of the Board shall be kept.
- 13.5 Decisions of the Board may be made in such manner (including by audio, audio and visual, or electronic communication) as it determines.

14. Accounts

- 14.1 Unless expressly otherwise determined by the Board, the annual date for the preparation of all accounts shall be 30 June.
- 14.2 The Board shall keep true and fair accounts of all money received and expended.
- 14.3 No review or audit of the annual financial statements is required unless a review or audit is requested at any properly convened Board Meeting.

15. Powers

- 15.1 The Trustees shall have full power and authority to buy, sell, lease, invest, mortgage, deal and carry on business with and generally manage and order the Trust Fund in all respects as if the Trustees were the absolute beneficial owners of it and the powers detailed in this clause shall be deemed to be in aid of this power but shall not derogate from its generality.
- 15.2 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 purposes are as follows:
- a) to use the Trust Fund as the Board thinks necessary or proper for payment of costs and expenses of the Trust, including the employment of professional advisers, agents, officers and staff as appears necessary or expedient;
 - 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 purposes 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 foresaid;

- c) to carry on any business;
- 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;
- 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;
- 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; and
- g) to exercise the power of co-option detailed in clauses 9.5 and 9.6.

15.3 In addition to and without limiting the powers contained or implied in this Deed, the Trust is empowered to apply for incorporation in accordance with provisions of the *Charitable Trusts Act 1957*.

16. Power to Delegate

16.1 The Board may, from time to time, appoint any committee and may delegate 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 like manner and with the same effect as the Board could itself have exercised or performed them.

16.2 Any committee or person to whom the Board has delegated powers or duties shall be bound by the terms of this Deed.

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

16.4 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.

17. Accretions to the Trust Fund

The Trustees shall have the power to accept for the purposes of the Trust any gift, legacy or devise of property real or personal and whether absolutely or on conditions agreed between the Trustees and the person, firm or company making such gift, legacy or devise but subject always to the same being held for the charitable purposes of the Trust and also subject to the Trustees being able to refuse such gift, legacy or devise.

18. 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 appointed by the Board, and shall be used only as directed by the Board. It shall be affixed to documents only in the presence of, and accompanied by the signature of two Trustees.

19. Trustees' Indemnity (except for fraud)

No Trustee shall be liable for:

- 19.1 Any loss not attributable to dishonesty or to the wilful commission by the Trustee of an act known to the Trustee to be a breach of trust; or
- 19.2 The neglect or default of any solicitor, bank, accountant, auditor, share-broker, investment advisor or other agent employed in good faith by the Trustee and in particular no Trustee shall be bound to take any proceedings against a co-Trustee or former Trustee for any breach or alleged breach of trust committed by such co-Trustee or former Trustee.

20. Alteration of Rules

The Board may, by consensus or pursuant to a resolution passed by a two thirds majority make alterations or additions to the terms and provisions of this Deed provided that no such alteration or addition shall:

- 20.1 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
- 20.1.2. Be made to clauses 5, 8 and 18 unless it is first approved in writing by the Commissioner of Inland Revenue.

21. Distribution

The Trustees may by unanimous resolution voluntarily wind up the Trust and all the assets of the Trust remaining after all liabilities have been met, shall subject to section 27 of the Charitable Trusts Act 1957 be given, assigned, made over or donated for carrying out charitable purposes within Central Otago similar to those set out in this Deed. If no such purpose exists within Central Otago at the time of wind up, the remaining assets shall be vested with the Central Otago District Council to be held in a separate account until such time as this purpose exists.