

TARRAS COMMUNITY TRUST DEED

Dated 8th May 2009

PARTIES:

1. Peter William JOLLY of Tarras, Farmer
2. Alastair Askin RUTHERFORD of Tarras, Farmer
3. Alistair Mark DAVIDSON of Tarras, Farmer
4. Noel George TREVATHAN of Tarras, Farmer
5. Bruce Duncan Stuart JOLLY of Wanaka, Farmer
6. John Davis Lunn DAVIS of Wanaka, Farmer
7. Barbara May ANNAN of Tarras, Farmer
8. Angus Ben CHAPMAN-COHEN of Tarras, Farmer

BACKGROUND:

- A. The parties to this Deed together with Peter James Wheen:
 - (a) have established a Charitable Trust ("the Trust") by signed instrument dated 28 August 2008 (Trust Instrument) for the purposes described in Section 4 of the Trust Instrument;
 - (b) were appointed trustees at a meeting of the Tarras Community held on the 27 day of August 2008; and
 - (c) settled \$1,221.14 on the Trust when it was first established on 28 August 2008.
- B. Peter James Wheen, an original trustee under the Trust Instrument, resigned as a trustee on 5 May 2009.
- C. The parties to this Deed have agreed to enter into this Deed specifying the purposes of the Trust and providing for its control and governance (which Deed alters the purposes of the Trust that were originally specified in the Trust Instrument and replaces the Trust Instrument).

THIS DEED WITNESSETH:

1. Interpretation

- 1.1 In this Deed the following terms have the following meanings:
 - (a) "*Balance Date*" means -- 30 June or any other date adopted by the Board.
 - (b) "*General meeting*" means -- a meeting of members of the Trust.
 - (c) "*Person*" includes -- any body, organisation or entity whether corporate or incorporate.

Handwritten signatures and initials in black ink, including 'H.A.R.', 'ASCE', and others, located at the bottom right of the page.

(d) "Tarras Community" means -- the area within the Central Otago District on the true left of the Clutha River from Devils Creek north east to the boundary of the Cromwell Ward, as those boundaries are defined at the date of this Deed, and includes any person residing, operating, located or paying rates within this area.

1.2 A reference to a statutory provision includes any statutory provision which amends or replaces it and any subordinate legislation made under it.

2. Name

2.1 The name of the Trust shall be the "Tarras Community Trust".

3. Office

3.1 The registered office of the Trust shall be determined by the Board.

3.2 Notice of any change of the registered office shall be given under the Charitable Trust Act 1957 and Charities Act 2005.

4. Purposes

4.1 The purposes of the Trust are exclusively any purpose which:

- (a) benefits all or any part of the Tarras Community; and
- (b) is charitable according to the laws of New Zealand.

4.2 The purposes of the Trust shall include initiating, promoting and assisting the establishment of a water scheme to extract water from the Clutha River for consumptive use including stock water, domestic water, fire fighting and irrigation for the social, amenity, health, safety, welfare and recreational benefit of the Tarras Community and to assist with the diversification of, and sustainable, management of land. The proposed water scheme may be established and operated by a partly user owned Water Company set up for this purpose. The Trust shall assist in, the establishment of the Water Company, and funding the cost by the Water Company to obtain the resource consents to extract the water.

5. Board of Trustees

5.1 The Trust shall be administered by a Board of Trustees ("the Board").

5.2 The Board shall consist of not more than nine nor less than six members.

5.3 The first Board is the signatories to this deed. Subsequent to this, the Board shall be elected by rotation at each annual general meeting.

5.4 One third of the Board members shall retire by rotation each year. The Board members shall retire in the following order:

- (a) *Firstly*; those members who wish to resign; then
- (b) *Secondly*; those longest serving as Board members for their current term in office; then
- (c) *Thirdly*; those whose surnames start with the letters closest in the alphabet to "A".

5.5 A Board member who is not required to retire under clause 5.4 shall retire after serving three consecutive years as a Board member.

5.6 The Board members who retire shall be eligible for re-election.



- 5.7 Nominations for positions on the Board must be:
- (a) in writing;
 - (b) endorsed with the consent of the nominee; and
 - (c) given to the Secretary not less than seven days before the annual general meeting.
- 5.8 If there are insufficient written nominations to fill the vacant positions on the Board, oral nominations with the consent of the nominee may be made at the annual general meeting.
- 5.9 Subject to clause 5.2, the Board may appoint further members on the Board and fill any casual vacancies on the Board, which appointment shall expire upon the earlier of the next annual general meeting and a date determined by the Board.
- 5.10 A person shall cease to be a member of the Board upon him or her dying, being disqualified from being an officer of charitable entities under section 16 of the Charities Act 2005, or resigning in writing to the Board.

6. Proceedings of the Board

- 6.1 The Board shall meet at such times and places as it determines, and shall elect a Chairperson from amongst its members at its first meeting and at every subsequent first meeting of the Board following an annual general meeting.
- 6.2 The Board shall appoint a secretary and treasurer to the Board, which offices may be combined. The Secretary and Treasurer need not be members of the Board.
- 6.3 The Chairperson shall preside at all meetings of the Board at which he or she is present. If the Chairperson is absent from any meeting, the members present shall appoint one of their number to chair that meeting.
- 6.4 At any meeting of the Board, five members shall form a quorum and no business shall be transacted unless a quorum is present.
- 6.5 The Board shall make a genuine effort to decide all questions before the Board by consensus. However, where 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 the voting is tied, the chairperson shall have a casting vote as well as his or her deliberative vote.
- 6.6 The Secretary shall keep minutes of all Board meetings which shall be available for inspection by Board members at reasonable times.
- 6.7 The Board shall regulate and conduct their meetings as they think fit.
- 6.8 A resolution in writing, signed or assented to by all Trustees:
- (a) is as valid as if it had been passed at a duly convened meeting of the Board; and
 - (b) may consist of several documents (including facsimile, e-mail, portable document formatted electronic file (PDF File) or other similar means of communication) in like form each signed or assented to by one or more Trustees.

A copy of such resolution must be entered in the minute book of Board proceedings.



Handwritten signatures and initials in the bottom right corner of the page, including 'A.R.', 'JOD', and 'JWA'.

7. Powers

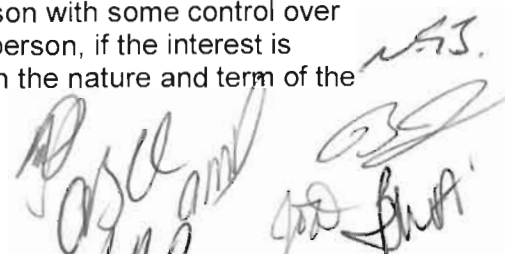
- 7.1 In addition to the powers expressed and implied by the laws of New Zealand, the powers which the Board may exercise in order to carry out its charitable purposes are:
- (a) To use the fund of the Trust in payment of the costs and expenses of the Trust, including the employment of professional advisers, agents, officers and staff;
 - (b) To purchase, take on lease or in exchange or hire or otherwise acquire any interest in 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;
 - (c) To carry on any commercial activity;
 - (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 with or without security and upon such other terms as the Board thinks fit;
 - (f) To do all things as may from time to time appear necessary or desirable to enable the Board to give effect to and to attain the charitable purposes of the Trust and to maintain, protect and add to the Trust assets; and
 - (g) Generally, without limitation, to deal with the property of the Trust in any manner which the Board shall decide as though the Trustees were the absolute owners of the property.

8. Trustee remuneration and expenses.

- 8.1 Any Trustee engaged in any profession, business or trade is entitled to be paid all usual charges for professional, business and trade services provided to the Trust by that person or that person's employee or partner.
- 8.2 The Board may employ any Trustee.
- 8.3 Any payment to a Trustee under clauses 8.1 and 8.2 must not exceed a fair market value for the services provided.
- 8.4 No Trustee receiving a payment under clauses 8.1 and 8.2, or person associated with such Trustee (as defined in the Income Tax Act 2007), may determine or materially influence the decision by the Board on the nature or amount of that payment or the circumstances in which it is to be paid.
- 8.5 The Trustees shall be reimbursed all travel, accommodation and other expenses properly incurred in connection with the Trust and authorised by the Board.

9. No private profit

- 9.1 All income of the Trust shall be applied to the charitable purposes of the Trust.
- 9.2 No income of the Trust shall be applied to the private pecuniary profit of any individual.
- 9.3 No person with some control over any business of the Trust shall direct or divert, to their own benefit or advantage, an amount derived from the business, within the meaning of section CW 42 of the Income Tax Act 2007.
- 9.4 Notwithstanding clause 9.3, the Trust may pay to any person with some control over any business of the Trust, interest on money lent by that person, if the interest is payable at no more than the current commercial rate given the nature and term of the loan.



10. Accounts and audit

- 10.1 The Board shall keep true and fair accounts of all money received and spent.
- 10.2 The Trust's financial year shall end on the Balance Date.
- 10.3 The Board shall, as soon as practical after the end of every financial year of the Trust, have an accountant prepare financial statements for the Trust for that financial year and the financial statements shall be presented to the annual general meeting.
- 10.4 The Board shall have the Trust's accounts for a financial year audited by a chartered accountant appointed by the Trustees for that purpose if any member of the Board, or the members of the Trust by a resolution passed at a general meeting, require the accounts to be audited.

11. Power to delegate

- 11.1 The Board may appoint any committee and may delegate any of its powers and duties to such committee or to any person (but without a power of further delegation), to the extent permitted at law.
- 11.2 Any committee or person to whom the Board has delegated powers or duties shall be bound by the terms of this Deed.
- 11.3 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.
- 11.4 Such committee shall comprise of not less than one Board member. It shall not be necessary that any other 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.

12. Common Seal

- 12.1 The Board shall have a common seal which shall be kept in the custody of such person or location chosen by the Board and shall be used only as directed by the Board.
- 12.2 The Common Seal shall be affixed to documents only in the presence of, and accompanied by the signature of, two members of the Board.

13. Liability and indemnity of Trustees

- 13.1 No Trustee will be liable for any loss to the Trust arising from any act or omission of the Trustee unless it is attributable to that Trustees own dishonesty or own wilful breach of trust.
- 13.2 Each Trustee and former Trustee shall be indemnified from the Trust for any loss, liability and costs (including legal costs) incurred by them other than loss attributable to their own dishonesty or own wilful breach of trust.
- 13.3 In this section 13, a reference to "Trustee" shall include the trustees who constitute the Board from the date of incorporation of the trustees as a board under the Charitable Trusts Act 1957.

14. Membership of the Trust

- 14.1 The following persons may be members of the Trust:
 - (a) Any person residing, or paying rates, within the Tarras Community; and

Handwritten signatures and initials in the bottom right corner of the page. The signatures are written in black ink and include 'AD', 'M.J.', 'A.A.R.', and 'BWA'. There are also some other illegible initials and scribbles.

- (b) Any other person who applies in writing to the Board for membership and is approved by the Board. The Board may refuse such application for membership without having to give reasons for its decision and its decision shall be final.
- 14.2 The Board may require members of the Trust to pay a subscription. The subscription shall be determined, and may be varied, by a resolution passed at a general meeting.
- 14.3 Any member may resign their membership by giving notice in writing to the Secretary.
- 14.4 The Board may resolve to expel a member from the Trust:
 - (a) If the member owes money to the Trust which remains unpaid after six months; or
 - (b) If the Board considers the conduct of any member is injurious to the standing or interests of the Trust and:
 - (i) The Board has given written notice to that member of that member's conduct of concern and has given that member the opportunity of providing a written or verbal explanation to the Board within a timeframe specified by the Board; and
 - (ii) The Board has considered the conduct of concern, and any explanation provided by that member.
- 14.5 The person shall cease to be a member of the Trust upon the passing of the Board resolution to expel that member.
- 14.6 The expulsion of any member from the Trust shall not release that member from any money owed to the Trust up to the date of expulsion.

15. Annual general meeting

- 15.1 The annual general meeting of the Trust shall be held each year within four months of the Balance Date.
- 15.2 The annual general meeting shall carry out the following business:
 - (a) Receive the minutes of the previous annual general meeting and of any other special general meeting held since the last annual general meeting;
 - (b) Receive the Trust's statement of accounts for the preceeding year;
 - (c) Receive reports from the Board and its committees;
 - (d) Subject to section 5, elect members of the Board;
 - (e) Fix the annual subscription (if any) for the new year; and
 - (f) Consider any other matter which the chairperson determines may properly be considered.

16. Special general meetings

- 16.1 A special general meeting of the Trust shall be called by the Secretary:
 - (a) at the request of the Board; or
 - (b) on receipt by the Secretary of a request in writing for such meeting, and stating the purpose for the meeting, from not less than 20 members of the Trust.
- 16.2 The notice calling a special general meeting shall state in general terms the business of the meeting and only this business shall be discussed at the meeting.

Handwritten signatures and initials at the bottom right of the page, including 'A.A.R.', 'OBCE', and 'SUA'.

17. Procedure for general meetings

- 17.1 This section 17 shall apply to annual and special general meetings.
- 17.2 The Secretary shall give not less than four weeks notice of any annual general meeting and not less than two weeks notice of any special general meeting, either by advertisement in a local newspaper circulating in the district of the Trust or by notice posted by ordinary mail to each member. The notice shall specify the place, date and time of the meeting.
- 17.3 Ten members of the Trust personally present shall constitute a quorum for a general meeting. For the purpose of this clause 17.3, a member with an overdue subscription owing to the Trust shall not be counted as part of the quorum.
- 17.4 Should a quorum not be present at any general meeting, the Board may adjourn the meeting to such date as they consider appropriate ("adjourned meeting"), and if at the adjourned meeting a quorum is not present, those members who are present shall be a quorum and may transact the business for which the meeting was called. Notice of the adjourned meeting shall be given in accordance with clause 17.2.
- 17.5 The Chairperson of the Board constituted immediately prior to the general meeting, or the Chairperson's nominee, shall chair the general meeting.
- 17.6 The following procedure shall apply for voting at a general meeting:
- (a) No member shall be allowed to vote unless all that member's subscriptions which are due have been paid.
 - (b) Members have one vote only and must be personally present.
 - (c) Unless otherwise provided for in this Deed, every motion submitted to a general meeting shall be carried if the majority of the members present and entitled to vote, vote in favour of it.
 - (d) Unless the Chairperson determines that the voting shall be conducted solely by a poll, the vote shall be conducted as follows:
 - (i) in the first instance by voice; and
 - (ii) if the Chairperson requires it, then by a show of hands; and
 - (iii) if the Chairperson requires it, or if a poll is demanded at the general meeting by at least three members, by a poll which shall be taken in such a manner as the Chairperson may direct. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
 - (e) In the case of an equality of votes the motion is not passed and the Chairperson shall not have a casting vote.
 - (f) Unless a poll is conducted, a declaration by the Chairperson that a resolution has been carried, or carried by a particular majority, or lost or not carried by a particular majority, shall be conclusive.
- 17.7 Unless it is expressly provided for in this Deed, a resolution relating to the management or decisions of the Board and passed at a general meeting is not binding on the Board.

18. Alteration of terms

- 18.1 In this section 18, "altered" includes deleted, amended and added to.
- 18.2 The terms of this Deed may only be altered by a resolution passed at a general meeting by a majority of at least two-thirds of the members voting at the meeting.
- 18.3 Subject to clause 18.4, the Board shall by deed make any alteration to the terms of this Deed prescribed by a resolution passed in accordance with clause 18.2.

Handwritten signatures and initials in black ink, including 'AAR', 'AMB', and 'MEL', along with other illegible marks.

- 18.4 No alteration to the terms of this Deed shall:
- (a) detract from the exclusively charitable nature of the Trust or result in the distribution of its assets on winding up for any purpose that is not exclusively charitable; or
 - (b) render the Trust unqualified for registration as a charitable entity under the Charities Act 2005; or
 - (c) be made to section 8 unless it is first approved in writing by the Department of Inland Revenue.
- 18.5 The Board shall give the notices of alteration of terms required by section 23 of the Charitable Trust Act 1957 and section 40 of the Charities Act 2005.

19. Winding up

- 19.1 If at a general meeting a resolution is passed by a majority of members to wind up the Trust and the resolution is confirmed by a majority of members at a subsequent general meeting called for that purpose and held within the prescribed period specified in clause 19.2, the Board shall:
- (a) distribute all surplus assets, after the payment of all costs, debts and liabilities, to such exclusively charitable organisation or organisations which will benefit the Tarras Community as directed by the authorising resolution of the general meeting; and
 - (b) wind up the Trust.
- 19.2 The "prescribed period" referred to in clause 19.1 shall be not sooner than the 28th day and not later than the 42nd day after the date on which the resolution to be confirmed was passed.
- 19.3 If the general meeting does not pass a resolution to distribute the surplus assets under clause 19.1, the surplus assets shall be disposed of in accordance with the directions of the Court pursuant to section 27 of the Charitable Trust Act 1957.
- 19.4 No member of the Trust shall receive any surplus assets of the Trust upon it being wound up.

20. Variation and Replacement of Trust Instrument

- 20.1 This Deed varies the terms of the Trust Instrument by the addition of clauses 4.2 and 13.3.
- 20.2 This Deed revokes and is in substitution for the Trust Instrument.

A collection of handwritten signatures and initials in black ink. On the left, there is a large, stylized signature that appears to be 'JP'. Below it are the initials 'ASCL'. In the center, there is a signature that looks like 'AM' and the initials 'A.A.R.' below it. On the right, there is a signature that looks like 'MS' at the top, a larger signature below it, and the initials 'JOD' and 'SHUA' at the bottom right.

SIGNED by Peter William JOLLY
in the presence of:





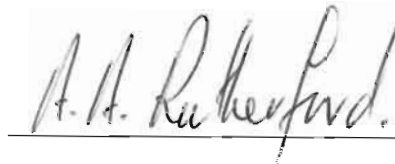
Witness Signature
John Morrison

Print Name
Floriculturist

Witness Occupation
Tarras

Place of residence

SIGNED by Alastair Askin
RUTHERFORD in the presence of:





Witness Signature
John Morrison

Print Name
Floriculturist

Witness Occupation
Tarras

Place of residence

SIGNED by Alistair Mark DAVIDSON
in the presence of:





Witness Signature
John Morrison

Print Name
Floriculturist

Witness Occupation
Tarras

Place of residence

SIGNED by Noel George TREVATHAN
in the presence of:





Witness Signature
John Morrison

Print Name
Floriclturalist

Witness Occupation
Tarras

Place of residence

SIGNED by Bruce Duncan Stuart JOLLY
in the presence of:





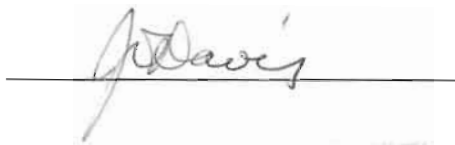
Witness Signature
John Morrison

Print Name
Floriclturalist

Witness Occupation
Tarras

Place of residence

SIGNED by John Davis Lunn DAVIS
in the presence of:





Witness Signature
John Morrison

Print Name
Floriclturalist

Witness Occupation
Tarras

Place of residence

~~SIGNED by Peter James WHEEN~~
~~in the presence of:~~

Witness Signature

Print Name

Witness Occupation

Place of residence

SIGNED by Barbara May ANNAN
in the presence of:

Barbara M. Annan

[Signature]
Witness Signature

John Morrison
Print Name

Floriculturealist
Witness Occupation

Tarras
Place of residence

SIGNED by Angus Ben CHAPMAN-
COHEN in the presence of:

[Signature]

[Signature]
Witness Signature

John Morrison
Print Name

Floriculturealist
Witness Occupation

Tarras
Place of residence