

# **DECLARATION OF TRUST**

**relating to**

**CENTRAL PLAINS WATER TRUST**

Settlers

**CHRISTCHURCH CITY COUNCIL  
SELWYN DISTRICT COUNCIL**

Trustees

**THE PERSONS  
LISTED IN SCHEDULE 1**

## DECLARATION OF TRUST

relating to

### CENTRAL PLAINS WATER TRUST


DATED 9 October 2012.

#### PARTIES

- (1) THE CHRISTCHURCH CITY COUNCIL and SELWYN DISTRICT COUNCIL (together "the Settlers")
- (2) THE PERSONS LISTED IN SCHEDULE 1 ("the Trustees")

#### RECITALS

- A. The Central Plains Water Trust ("the Trust") was created by a Deed of Declaration of Trust dated 15 April 2003 ("The Original Declaration of Trust") and was incorporated under The Charitable Trusts Act 1957 on 26 September 2003 for the purpose of creating a charitable trust for the benefit of the present and future residents of the Regions as described below. The money contributed for such purposes was entrusted to a board of trustees ("the Board") of the Trust and the Board has held and distributed the money upon the trusts and subject to the terms and conditions set out in the Original Declaration of Trust.
- B. The Board entered into contractual arrangements with Central Plains Water Limited ("CPWL") in November 2004 under which (inter alia) CPWL agreed to obtain resource consents under the Resource Management Act 1991 and other consents for and on behalf of the Board in return for which the Board agreed to licence the consents to CPWL for the purpose of constructing and operating a water enhancement scheme usually referred to as the Central Plains Water Scheme ("the Scheme"), and the consents were duly obtained and were issued in the name of the Trust by the Environment Court on 25 July 2012.
- C. As part of the settlement agreements with various objecting submitters to the process under the Resource Management Act 1991 for the consents which have been issued, and in order to ensure that the Trust will continue qualify for registration as a re-registered charitable trust under the Charitable Trusts Act 1957, the Board proposed certain amendments to the objects specified in The Original Declaration of Trust and to seek the consent of the settlors for those amendments under clause 18.1 of The Original Declaration of Trust; and the settlors have advised the Board of their intention to consent thereto as set out in this Deed.



### 3. NAME OF TRUST

- 3.1 The Trust is known as the Central Plains Water Trust but the Trustees may amend or change the name.

### 4. OBJECTS OF TRUST

- 4.1 The Settlers declare that the Trust is a trust for charitable purposes for the benefit of the present and future inhabitants of the Regions and further declare and direct that the Trust Fund may be applied and used exclusively by the Trustees for the following exclusively charitable purposes within New Zealand ("the Objects"), namely:
- 4.2 To promote the development of agriculture in the Central Canterbury Plains area of New Zealand for the benefit of all of the inhabitants of the Canterbury Region by:
- 4.2.1 Encouraging supporting and facilitating:
- a) sustainable development of the water resources of the Region
  - b) agricultural and horticultural diversity in the Central Canterbury Plains area
  - c) an appropriate balance of the benefits of agricultural development with the enhancement of ecological, social and recreational values in the Central Plains area.
- 4.2.2 Providing and facilitating education to the inhabitants of the Region in relation to water issues and sustainable agricultural development.
- 4.3 In pursuance of the Objects, the Trustees will have regard to:
- (a) appropriate strategic development plans for the water resources of the Regions;
  - (b) whether other sources of funding or support are available, including assistance provided through industry or regional development policies and programmes of local authorities or central government;
  - (c) the objectives, roles and activities of any other organisations engaged in economic development activities in the Regions;
  - (d) inter-generational issues to order to promote long term sustainability of the water resources of the Regions; and
  - (e) the vision and principles agreed by the Trust to apply to the Scheme, as set out in the agreement in relation to the Scheme between Te Runanga o Ngai Tahu, Te Taumutu Runanga Inc, Te Ngai Tuahuriri Inc, Wairewa Runanga Inc, Te Runanga o Arowhenua Trust, Central Plains Water Trust and Central Plains Water Limited dated 29 May 2012, and any other matters that they believe are relevant.
- 4.4 The Objects of the Trust are and shall be charitable and shall not include or extend to any matter or thing which is or shall be held or determined to be non-charitable. Any private benefit which is conferred on any individual or individuals must be incidental to the pursuit by the Trust of the

- (a) the Trustees may receive full reimbursement for all costs, charges and expenses properly incurred by the Trustees in connection with the affairs of the Trust; and
- (b) the Trustees may receive (and may also pay to any person) reasonable and proper remuneration in return for services actually rendered to the Trust.

9.2 The Trustees, in determining all reimbursements, remuneration and charges payable in terms of this Deed, must ensure that the restrictions imposed by clause 10.3 are strictly observed.

9.3 Notwithstanding anything to the contrary in this Deed, no remuneration or benefit or advantage (regardless of whether it is convertible into money) or income of any of the kinds referred to in the sections set out in CW 35(8) of the Income Tax Act 2004 and section CW 42(8) of the Income Tax Act 2007, the proviso to section CW35(1)(d) of the Income Tax Act 2004, and section CW42(1)(c) of the Income Tax Act 2007 shall be paid or afforded to or received or gained or achieved or derived by any person ("the Determining Person") if the proviso to section CW 35(1)(b) of the Income Tax Act 2004 and section CW42(c) of the Income Tax Act 2007 denies the Trustees an exemption from tax or income derived by the Trustees from the carrying on of any business by or on behalf of or for the benefit of the Trustees, and the Determining Person can, in any way (whether directly or indirectly) determine, or materially influence in any way the determination of, the nature or the amount of the remuneration or benefit or advantage or income referred to in this clause 10.3 or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by the Determining Person.

9.4 Clause 9.3 does not apply if and to the extent that there is an exclusion from the application of section CW35(8) of the Income Tax Act 2004 and section CW42(8) of the Income Tax Act 2007 by any law of New Zealand (whether that law is the Income Tax Act 2004 the Income Tax Act 2007 or otherwise).

9.5 A person who, in the course of and as part of the carrying on of his or her business of a professional public practice, renders professional services to the Trust, shall not, by reason only of his or her rendering professional services to the Trust, be in breach of clause 10.3.

## 10. TRUSTEES

10.1 The provisions of this Deed dealing with the number, appointment, payment and cessation of office of the Trustees are set out in Schedule 3.

10.2 The provisions relating to meetings of the Trustees are set out in Schedule 4.

## 11. INTERESTED TRUSTEES

11.1 A Conflict Transaction exists for a Trustee whenever a Trustee, whether directly or indirectly, has a material interest in any contract or proposed contract for arrangement or dealing with the Trust, in which case the relevant Trustee shall disclose the nature of that interest at a meeting of the Trustees and such disclosure shall be recorded in the minutes of the meeting.

11.2 A Trustee required to disclose an interest by clause 11.1 may be counted in a quorum present at a meeting but shall not vote in respect of the matter in which the Trustee is interested (and if the

#### **14. ACCOUNTS, AUDIT AND REPORTING**

- 14.1 The Trustees must ensure that proper financial records are kept for the Trust.
- 14.2 The financial records must present the Trust's receipts, credits, payments, assets, liabilities and all other matters necessary or appropriate in a way that shows the true state and condition of the financial affairs of the Trust. The Trustees will determine the balance date of the Trust.
- 14.3 The Trustees will have the annual accounts of the Trust audited.
- 14.4 The financial records and annual accounts will be kept at the Trustees' office or at such other place as the Trustees think fit.
- 14.5 The Trustees will report on the affairs of the Trust to the Settlers on a quarterly basis, in such form as may from time to time be agreed between the Trustees and the Settlers. In addition, the Trust will provide an annual report which (in addition to what is required under generally accepted accounting principles) must disclose matters required by law to be publicly disclosed by entities similar to the Trust.
- 14.6 The financial records and annual accounts must always be available to be inspected by the Trustees.
- 14.7 The Trustees will publish a summary of the annual report in newspapers circulating in the Regions.
- 14.8 The annual report will be available on request and copies will be placed in public libraries in the Regions.
- 14.9 The Trustees will hold a public meeting within 4 months of balance date to present and receive public comment on the annual report. The Trustees will publicise the date of that meeting in newspapers circulating in the Regions.

#### **15. BORROWING**

- 15.1 The Trustees shall have the power to borrow and to give guarantees or charges over the Trust Fund.

#### **16. CUSTODY AND USE OF COMMON SEAL**

- 16.1 The common seal of the Trust will be kept in the custody of a person nominated by the Trustees and will be used only by authority of a resolution of the Trustees. Every instrument to which the seal is affixed will be signed by the chairperson and one other Trustee.

#### **17. AMENDMENT OF TRUST DEED**

- 17.1 Subject to any relevant legislation for the time being in force and only with the prior written consent of the Settlers, the Trustees have the power by deed:



**EXECUTION**

**THE COMMON SEAL of** )  
**THE CHRISTCHURCH CITY COUNCIL** )  
was hereunto affixed by and in the )  
presence of:

\_\_\_\_\_

Mayor/Councillor

\_\_\_\_\_

Authorised Officer

**THE COMMON SEAL of** )  
**SELWYN DISTRICT COUNCIL** )  
was hereunto affixed by and in the )  
presence of:

\_\_\_\_\_

Mayor/Councillor

\_\_\_\_\_

Authorised Officer



**SIGNED by** )  
**DOUGLAS JAMES CATHERWOOD** )  
in the presence of )

\_\_\_\_\_

Witness signature

\_\_\_\_\_

Signature

W. D. M. CROMBIE

Full Name

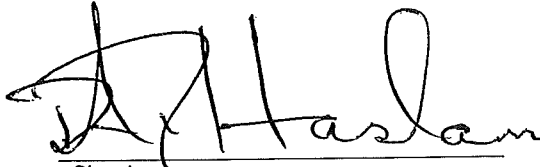
CHRISTCHURCH

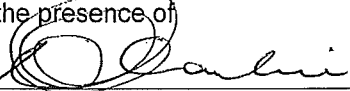
Address

CIVIL ENGINEER

Occupation

SIGNED by  
DAVID ANTHONY ROBERT HASLAM  
in the presence of

)  
)   
)  
Signature

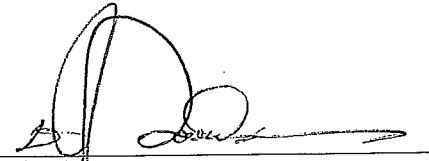
  
Witness signature

W.D. CROMBIE  
Full Name

CHRISTCHURCH  
Address

CIVIL ENGINEER.  
Occupation

SIGNED by  
DENIS JOHN O'ROURKE  
in the presence of

)  
)   
)  
Signature

D.J. McCaw  
Witness signature

Donald J McCaw  
Full Name

72 Alpine View R.D 5.  
Address

Consultant, CPW.  
Occupation

## SCHEDULE 2

### Powers of Trustees

#### 1. Interpretation

##### 1.1 In this schedule:

- (a) Expressions or terms have the meanings given by the Trust Deed, unless the context requires otherwise;
- (b) Unless the context requires otherwise, references to clauses are to clauses of this schedule.

#### 2. Powers of Trustees

##### 2.1 The Trustees have power in accordance with clause 8 of the Trust Deed:

- (a) To apply for and hold the resource consents necessary for the Scheme and which are to be made available to the Scheme;
- (b) To provide grants and/or loans to enable studies to be undertaken in respect of water issues affecting the Regions;
- (c) To acquire, develop and own infrastructural assets related to the Scheme;
- (d) To co-operate with other entities including neighbouring water groups where the Scheme is likely to benefit;
- (e) To invest the Trust Fund in accordance with policies determined by the Trustees from time to time;
- (f) To accumulate Income;
- (g) To enter into contracts for the provision of services to achieve the Objects;
- (h) To open and maintain a bank account and to decide who will be the signatories to that account;
- (i) To advertise the Trust and the Objects;
- (j) To obtain incorporation or registration of the Trust in accordance with any law from time to time in force relating to charitable trusts;
- (k) To appoint or engage or employ any person or company (including the Trustees) for any period:
  - (i) as an expert or professional person or entity to advise on or carry out any of the trusts and powers authorised by this Deed; or
  - (ii) as an attorney or delegate for the Trustees in New Zealand or elsewhere for all or any of the purposes of the Trust; or



## SCHEDULE 3

### Rules governing the number, appointment, payment and cessation of office of the Trustees

#### 1. Interpretation

##### 1.1 In this schedule:

- (a) Expressions or terms have the meanings given by the Trust Deed, unless the context requires otherwise;
- (b) Unless the context requires otherwise, references to clauses are to clauses of this schedule.

#### 2. Number of Trustees

##### 2.1 Subject to clause 2.5, there shall be up to 12 Trustees.

##### 2.2 The Settlers will jointly:

- (a) Have the right to appoint the Trustees for such term of office (not exceeding three years, as provided for in clause 3) as they see fit;
- (b) Have the right to remove the Trustees as they see fit.

##### 2.3 In jointly exercising their power to appoint and remove Trustees, the Settlers will be mindful of the need to provide balanced representation in the Trust, including appropriate representation for the following interest groups:

- (a) Tangata whenua;
- (b) Environment protection agencies;
- (c) Farmer interest groups.

##### 2.4 In exercising such power the Settlers will also endeavour to ensure that the Trustees include persons possessing the generic and specific competencies previously identified by the Settlers from time to time as being desirable to be possessed by the Trustees.

##### 2.5 Notwithstanding the foregoing powers of the Settlers, the Trustees may themselves co-opt from time to time persons to serve as additional Trustees but (for the avoidance of doubt) such persons so co-opted will be subject to the removal power of the Settlers.

##### 2.6 The Trustees will have the power to appoint their Chairperson and to determine the period for which he or she is to hold office, provided that the term of appointment of the first Chairperson will be a period of one year.

##### 2.7 Notwithstanding the foregoing powers of the Settlers, Te Runanga o Ngai Tahu shall be entitled to appoint a total of three Trustees of the Trust from time to time.

## SCHEDULE 4

### Rules governing the meetings of Trustees

#### 1. Interpretation

##### 1.1 In this schedule:

- (a) Expressions or terms have the meanings given by the Trust Deed, unless the context requires otherwise;
- (b) Unless the context requires otherwise, references to clauses are to clauses of this schedule.

#### 2. Quorum

2.1 A quorum for meetings of Trustees shall be a majority in number of the Trustees.

#### 3. Time of meetings

3.1 Subject to these Rules and to this Trust Deed, the Trustees shall meet and regulate their meetings as they think fit.

#### 4. Chairperson

4.1 The chairperson of the Trustees will be appointed and may be removed by the Trustees.

4.2 The chairperson will have a casting vote.

#### 5. Notice of meetings

5.1 The chairperson or any 3 Trustees may at any time summon a meeting. 7 days' notice of any meeting (stating the place, day and time of the meeting) shall be communicated to each of the other Trustees unless all of the Trustees agree to shorten or waive the notice period.

5.2 No notice will be necessary for the resumption of adjourned meetings except to Trustees not present at the meeting adjourned.

#### 6. Decisions

6.1 All questions and matters arising at meetings of Trustees shall be decided by majority vote.

6.2 A resolution in writing signed by all of the Trustees shall be as effective as if it had been passed at a meeting. Such a resolution may consist of several like documents each signed by one or more of the Trustees and may be sent by facsimile.

6.3 Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees.

#### 7. Audible communication



