

**Malvern Housing Trust**

THIS DEED is made the 16th day of January 2019

**BETWEEN**

Name	Address	Occupation
Philip James Baldwin	15 McLaughlins Rd, Darfield.	Writer

The settlor

**AND**

Beverley Anne Elder 24 Kimberley Rd, Darfield. Retired  
 Keith Rodney Taege 11 Malvern Hills Rd, Sheffield. Engineer  
 Gwynneth Denise Gertrude Reynolds 29 Mathias St, Darfield. Retired  
 Susan Jane Baldwin 15 McLaughlins Rd, Darfield. Clergy  
 David Charles Askin 2003 Bealey Rd, Hororata. Scientist  
 Virginia Mary Askin 2003 Bealey Rd, Hororata. Self Employed  
 Ian Reg Pennells 20D Telegraph Road, Darfield. Civil Servant  
 The trustees

**BACKGROUND STATEMENT**

In the Spring of 2018, after four years of exploring the needs for social housing, concerned Malvern residents recognized a need for a formal group to address this.  
 The Malvern Housing Trust aims to help provide secure and affordable housing on a continuum from emergency needs to non-market rentals, through to ownership.  
 We aspire to the establishment of richly diverse communities, places where people are connected, contributing and supported.

**INITIAL TRUSTEES:**

The group named above, signed this deed to become the preliminary trustees. They are committed to the purposes for which this Trust exists.

**WHEREAS:**

- A. The parties to this Deed wish to establish a charitable trust (in this Deed referred to as "the Trust") for the purposes described in Clause 3 of this Deed, and
- B. The parties to this Deed have agreed to contribute the sum of one dollar each to establish the Trust; and
- 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 government.

*Handwritten signatures and initials:*  
 K R T  
 JMA  
 SJB  
 VMA  
 SDR  
 A

**1. TE INGOA/ NAME:**

Malvern Housing Trust

**2. MĀTĀPONO/PRINCIPLES**

The Trust is committed, in attaining its purposes, to:

- 2.1 respecting and implementing the dual heritage of the partners of Te Tiriti o Waitangi (The Treaty of Waitangi)
- 2.2 respecting the cultural diversity of people and encourage people from all nationalities to utilize the Trust's facilities and services;
- 2.3 inspiring people to reach their full potential;
- 2.4 working cooperatively with others to achieve our purpose; and
- 2.5 maintaining the highest standards of professionalism and integrity.

**3. WHĀINGA/ PURPOSE**

The purpose of the Trust will be to provide housing for those in need. The Trust will:

- 3.1 provide wrap around services where required;
- 3.2 provide affordable housing;
- 3.3 move people on to long term stability and independence; and
- 3.4 work collaboratively with others working in similar areas; and
- 3.5 undertake any other activities that the Board determines are for the pursuit and benefit of the Trust's Purposes.

**4. NGA MAHI KI AOTEAROA ANAKE/ ACTIVITIES LIMITED TO AOTEAROA/NEW ZEALAND**

The activities of the Trust will be in the Selwyn District and beyond, as the need arises.

**5. TARI/OFFICE**

The office of the Trust will be in such place as the Board of Trustees may from time to time determine.

**6. TE RUNANGA WHAKAHAERE/ THE BOARD OF TRUSTEES**

- 6.1 The Board will comprise no less than three (3) Trustees and no more than ten (10) Trustees. At least 50% of the Trustees shall have a residential address within the Malvern Ward of the Selwyn District.
- 6.2 The signatories to this Deed will be the first Board. The Trustees will elect from among themselves a Chairperson. A Secretary and Treasurer will also be appointed from among themselves or from non-trust members. The Trustees will elect office-bearers at the first meeting of the Board following the execution of this Deed, and whenever a vacancy of an office-bearer occurs or at the first meeting every financial year (as defined in clause 11.1). The positions of Secretary and Treasurer may be combined.

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KNG, SJB, DAA, PB, VMA, SDR, and other illegible marks.

- 6.3 A person will immediately cease to be Trustee when she or he resigns in writing, dies, is declared bankrupt, is found to lack mental capacity or is found to be a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or subsequent enactment.
- 6.4 The Board will have the power to fill any vacancy that arises in the Board or to appoint any additional trustees subject to clause 6.1.
- 6.5 The Board may continue to act notwithstanding any vacancy, but if their number is reduced below the minimum number of trustees as stated in clause 6.1, the continuing trustee/s may act for the purpose of increasing the number of trustees to that minimum but for no other purpose.
- 6.6 The Board may, by a motion decided by a two-thirds (2/3<sup>rd</sup>) majority of votes, terminate a person's position as a Trustee and member of the Board, if it believes that such action is in the best interests of the Trust.
- 6.7 The name of the Board will be Malvern Housing Trust Board.
- 6.8 Term of appointment. Unless otherwise specified in this deed each member of the board shall hold office for a term of THREE (3) years, with three members retiring in the first year, three members retiring in the second year, and remaining members retiring in the third year. Any retiring member shall be eligible for reappointment.

**7. NGA HUI O TE RUNANGA WHAKAHAERE/ MEETINGS OF THE BOARD**

- 7.1. The procedure for Board meetings will be as follows:
  - 7.1.1 A quorum will be at least half of its members.
  - 7.1.2 If a Trustee, including an office-bearer, does not attend three (3) consecutive meetings of the Board without leave of absence that member may, at the discretion and on decision of the Board, be removed as a Trustee, and/or from any office of the Trust which she or he holds.
  - 7.1.3 All questions will if possible be decided by consensus. In the event that a consensus cannot be reached then a decision will be made by a majority vote by show of hands, unless otherwise determined by the Board.
  - 7.1.4 At every meeting of the Trustees, the Chairperson will have a deliberative as well as a casting vote.
  - 7.1.5 In the absence of the Chairperson, the Board will elect a person to chair the meeting from among the Trustees present.
- 7.2 The Board will meet at least three (3) times every year. Meetings may be held in person or by any other means of communicating as decided on by the Board from time to time. Urgent decisions can be made using email, but the decision must be ratified and recorded at the next Board meeting.
  - 7.2.1 The Chairperson will be responsible for convening meetings of the Board.
  - 7.2.2 The Secretary will ensure that the entire Board is notified of every meeting.
- 7.3 The Secretary will ensure that minutes are maintained, a copy of which is available to any member of the Trust. The minutes for each meeting of the Board record
  - 7.3.1 the names of those present;

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- 7.3.2 all decisions made by the Board; and
- 7.3.3 any other matters discussed at the meeting.

## **8. TAKETAKE/ POWERS**

In addition to the powers provided 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:

- 8.1 to use the funds of the Trust as the Board thinks necessary or expedient in payment of the costs and expenses of the Trust, including the employment and dismissal of professional advisors, agents, officers and staff, according to principles of good employment and the Employment Relations Act 2000 or any subsequent enactment;
- 8.2 to purchase, take on, lease or in exchange or hire or otherwise, acquire any real or personal property and any rights or privileges which the Board thinks necessary or expedient in order to attain the purpose of the Trust and to sell, exchange, let, bail or lease, with or without option of purchase or, in any other manner, dispose of such property, rights or privileges;
- 8.3 to invest surplus funds in any way permitted by law for the investment of Charitable Trust funds and upon such terms as the Board thinks fit;
- 8.4 to borrow or raise money from time to time with or without security and upon such terms as to priority or otherwise as the Board thinks fit; and
- 8.5 to do all things as may from time to time be necessary or desirable to enable the Board to give effect to and attain the charitable purposes of the Trust.

## **9. KO NGA RAWA HEI PAINGA MO TE IWI/ INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED TO CHARITABLE PURPOSES**

- 9.1 Any income, benefit or advantage will be applied to the charitable purposes of the Trust.
- 9.2 No trustee or member of the Trust or any person associated with a trustee shall participate in or materially influence any decision made by the trustees in respect of any payment to or on behalf of that trustee or associated person of any income, benefit or advantage whatsoever.
- 9.3 Any such income paid shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).
- 9.4 The provision and effect of this clause shall not be removed from this deed and shall be implied into any document replacing this deed of trust.

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## 10. TURU TAKETAKE/ POWER TO DELEGATE

- 10.1 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. The committee or person may without confirmation by the Board exercise or perform the delegated powers or duties in the same way and with the same effect as the Board could itself have done.
- 10.2 Any committee or person to whom the Board has delegated powers or duties will be bound by the terms of the Trust and any terms or conditions of the delegation set by the Board.
- 10.3 The Board will be able to revoke such delegation at will, and no such delegation will prevent the exercise of any power or the performance of any duty by the Board.
- 10.4 It will not be necessary for any person who is appointed to be a member of any such committee, or to whom such delegation is made, to be a Trustee.

## 11. PŪTEA/ FINANCIAL ARRANGEMENTS

- 11.1 The financial year of the Trust will be from 1 January to 31 December.
- 11.2 At the first meeting of the Board in each financial year, the Board will decide by resolution the following:
  - 11.2.1 how money will be received by the Trust;
  - 11.2.2 who will be entitled to produce receipts;
  - 11.2.3 what bank accounts will operate for the ensuing year, including the purposes of and access to accounts;
  - 11.2.4 which three (3) trustees will be authorised signatories of which any two (2) are required to authorise payments;
  - 11.2.5 the policy concerning the investment of money by the Trust, including what type of investment will be permitted.
- 11.3 The Treasurer will ensure that true and fair accounts are kept of all money received and expended by the Trust and send annual financial statements to the relevant government authority after approval by the Board.
- 11.4 The Board will arrange for the accounts of the Trust for each financial year to be reviewed or audited as required. The reviewer /auditor must not be a member of the Board.

## 12. TE TOHE TAKETAKE/ COMMON SEAL

- 12.1 The Common Seal of the Board, following its incorporation, will be kept in the custody and control of the Secretary, or such other officer appointed by the Board.
- 12.2 When required, the Common Seal will be affixed to any document following a resolution of the Board and will be signed by the Chairperson (or a trustee acting as the Chair) and one other trustee appointed by the Board.

*Handwritten signatures and initials in blue ink:*  
RND JMA  
SJB  
PB  
SDGR  
DCA  
S  
A

### **13. TAKAWAENGA/ MEDIATION & ARBITRATION**

- 13.1 Any dispute arising out of or relating to this deed may be referred to mediation, a non-binding dispute resolution process in which an independent mediator facilitates negotiation between parties.

### **14 ANNUAL GENERAL MEETING (AGM) AND SPECIAL GENERAL MEETINGS**

- 14.1 The Annual General Meeting of the Trust shall be held each year before the 30<sup>th</sup> of April at such place, date and time as the Board shall determine.
- 14.2 The AGM shall carry out the following business:
- 14.2.1 Receive the minutes of the previous AGM and of any other Special General Meeting held since the last AGM; and
  - 14.2.2 Receive the Trust's statement of accounts for the preceding year and an estimate of income and expenditure for the current year; and
  - 14.2.3 Receive reports from the Board and its committees; and
  - 14.2.4 Election of officers; and
  - 14.2.5 Consider and decide any other matter which may properly be brought before the meeting.
- 14.3 A Special General Meeting can be called by a minimum of two (2) Trustees with three (3) weeks' notice, given to all Trustees.

### **15 TAUNAHA/ TRUSTEE LIABILITY**

It is declared that:

- 15.1 The Trustees are chargeable respectively only in respect of the money and securities they actually receive, or which, but for their own acts, omissions, neglects, or defaults they would have received, notwithstanding their signing any receipt for the sake of conformity; and
- 15.2 The Trustees are each answerable and responsible respectively only for their own acts, receipts, omissions, neglects and defaults and not for those of each other, or of any banker, broker, auctioneers, or other person with whom, or into whose hands, any Trust money or security is properly deposited or has come;
- 15.3 No Trustees shall be liable personally for the maintenance, repair, or insurance of any charges on such property;
- 15.4 No Trustees hereof shall be liable for any loss arising from any cause whatsoever including a breach of the duties imposed by Section 13B and/or Section 13C Trustees Act 1956 (as enacted by the Trustee Amendment Act 1988) (or any statutory replacement or equivalent) unless such loss is attributable:
- 15.4.1 To his or her own dishonesty; or
  - 15.4.2 To the wilful commission by him or her of an act known by him/her to be a breach of Trust.

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DCA, Jf, PB, K/h 2, SJB, SDR, and a star symbol.

And pursuant to Section 13D of the Trustees Act 1956 it is intended by this clause that the duties imposed by Section 13B and 13C of the Trustees Act 1956 shall not apply to any Trustee hereof.

- 15.5 No Trustees shall be bound to take any proceedings against a co-Trustee for any breach or alleged breach of Trust committed by that co-Trustee.
- 15.6 Notwithstanding the procedure or otherwise of retaining assets in the Trust Fund, no Trustee shall be liable for any loss suffered by the Trust Fund by reason of the Trustees retaining any asset forming part of the Trust Fund.
- 15.7 The Trustees shall from time to time and at all times be indemnified by and out of the Trust property from and against all costs, charges, losses, damages, and expenses sustained or incurred by them or in or about the execution and discharge of their office or in or about any claim, demand, action, proceeding or defence at law or in equity in which they may be joined as a party.

#### **16. NO PRIVATE PECUNIARY PROFIT**

16.1 No private pecuniary profit shall be made by any person from the Trust Property, except that:

- 16.1.1 any Trustee may receive full reimbursement for all expenses properly incurred by that Trustee in connection with the affairs of the Trust; and
- 16.1.2 The Trustees may pay reasonable and proper remuneration to any officer or servant of the Trustees (whether a Trustee or not) in return for services actually rendered to the Trustees.

#### **17. CONFLICT OF INTEREST**

When a conflict of interest exists for a Trustee, that Trustee must declare the nature of the conflict or the potential conflict; they must not take part in deliberations or proceedings including decision-making in relation to the conflict of interest.

#### **18. TE TUKU TOENGA RAWA/DISPOSITION OF SURPLUS ASSETS**

- 18.1 On the winding up of the Trust, or on its dissolution by the Registrar, all surplus assets, after the payment of costs, debts and liabilities will be given to other charitable organisation/s within New Zealand as the Board will decide.
- 18.2 If the Trust is unable to make such a decision, the surplus assets will be disposed of in accordance with the directions of the High Court pursuant to section 27 of the Charitable Trusts Act 1957 or subsequent enactment.

#### **19. WHAKAREREKĒTANGA TURE/ALTERATION OF THIS DEED**

19.1 The Trustees may at a Special General Meeting decided by a majority of votes, by supplemental deed, make alterations or additions to the terms and provisions of this deed, provided that no such alteration or addition will 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.

*Handwritten signatures and initials:*  
DCA, H, PB, K, GOSR, JAB, B, D.

19.2 Any alteration or addition must be recorded in writing either in a supplemental deed or a Trustees' resolution signed by all Trustees.

IN WITNESS OF WHICH this Deed has been executed:

**Philip James Baldwin**

SIGNED by the above named ) Philip Baldwin

as Trustee in the presence of: ) B Knopp

Full Name of Witness: ..... Brian Lindsay Knopp.....

Occupation: ..... Counsellor.....

Residential address: ..... 53 Bangor Rd Darfield.....

**Beverley Anne Elder**

SIGNED by the above named ) Beverly A Elder

as Trustee in the presence of: ) KJ Stirrup

Full Name of Witness: ..... KATHRYN JEAN STIRRUP.....

Occupation: ..... RETIRED.....

Residential address: ..... 1726 CLINTONS RD, RD1, DARFIELD.....

**Keith Rodney Taeye**

SIGNED by the above named ) KT Taeye

as Trustee in the presence of: ) Bd Knopp

Full Name of Witness: ..... Brian Lindsay Knopp.....

Occupation: ..... Counsellor.....

Residential address: ..... 53 Bangor Rd, Darfield.....





**Virginia Mary Askin**

SIGNED by the above named )

) VM Askin

as Trustee in the presence of: )

) BD Knopp

Full Name of Witness: ..... Brian Lindsay Knopp .....

Occupation: .. Counsellor .....

Residential address: .... 53 Bangor Rd Darfield .....

**Ian Reg Pennells**

SIGNED by the above named )

) I.R.P.

as Trustee in the presence of: )

) BD Knopp


Full Name of Witness: ..... Brian Lindsay Knopp .....

Occupation: .. Counsellor .....

Residential address: .... 53 Bangor Rd Darfield .....

I hereby certify that this is a correct copy of the trust deed of the Malvern Housing Trust board as per section 10(2) of the Charitable Trusts Act 1957.

Philip Baldwin

  
DJ. Woodward, JP  
#12072  
CANTERBURY  
Justice of the Peace for New Zealand