

DEED OF VARIATION OF TRUST

THE LAKE TAUPŌ PROTECTION TRUST

DEED dated 19th day of June 2024

PARTIES

- (1) **HIS MAJESTY THE KING** acting by and through the Minister for the Environment
- (2) **WAIKATO REGIONAL COUNCIL**
- (3) **TAUPŌ DISTRICT COUNCIL**

(Parties 1 to 3 under this deed are jointly referred to as "the Settlers")

and

- (4) **TAUPŌ DISTRICT COUNCIL** (referred to as "the Trustee")

BACKGROUND

- A. In 2007 LTPT was set up for the purpose of maintenance of water quality in Lake Taupō through a reduction in nitrogen discharge levels in the Lake Taupo catchment area.
- B. The project for which LTPT was set up utilised more than \$85 million of public funds sourced from Taupō District Council and Waikato Regional Council ratepayers and New Zealand taxpayers to secure a 170.3 tonne reduction in nitrogen discharge levels in the Lake Taupō catchment.
- C. The project involved the purchase by LTPT of nitrogen discharge rights from landowners to reduce their land's nitrogen discharge rights and thereby improve the quality of water in Lake Taupō.
- D. Taupō District Council has been appointed as the sole trustee of LTPT .
- E. The purpose of this deed is to vary the Trust Deed so that Taupō District Council may better control and administer LTPT and to disband the Joint Committee and associated structure that was contemplated by the Settlers during the project. This deed also records that the Settlers, other than Taupō District Council will have no further responsibilities to the Project, whether under the Project Agreement or otherwise, but without affecting their statutory roles, rights, and responsibilities, or Waikato Regional Council's responsibilities under the Monitoring Deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions:** In this deed, unless the context indicates otherwise:

LTPT means the charitable trust named The Lake Taupō Protection Trust, established in 2007 on terms set out in the Trust Deed and with its Board incorporated under the Charitable Trusts Act 1957;

Monitoring Deed means the deed entered by the Parties in 2015 for the ongoing, effective monitoring of the Project outcomes from 2015 and includes all variations to its terms from time to time.

Operative Date means midnight of 30 June 2023;

Trust Deed means the trust deed setting out the terms of the LTPT trust deed and dated 9 February 2007 and includes all variations to its terms from time to time.

1.2 **Interpretation:** In this deed, unless the context indicates otherwise:

- (a) **Clauses and Schedules:** references to clauses and schedules are to clauses in, and the schedules to, this deed. Each such schedule forms part of this deed;
- (b) **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning throughout this deed, including the Background, and unless otherwise indicated, terms defined or described in the Trust Deed have the same meaning or description in this deed;
- (c) **Documents:** references to any document (however described) are references to that document as modified, novated, supplemented, varied or replaced from time to time and in any form, whether on paper or in an electronic form;
- (d) **Headings:** section, clause and other headings are for ease of reference only and will not affect this deed's interpretation;
- (e) **Inclusive Expressions:** the terms **includes** and **including** (or any similar expression) are deemed to be followed by the words **without limitation**;
- (f) **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (g) **Parties:** references to parties are references to parties to this deed;
- (h) **Plural and Singular:** words importing the singular include the plural and vice versa; and
- (i) **Statutes/Regulations:** references to any statute or statutory provision include any amendment or replacement statute or statutory provision and any regulation, order, statutory instrument, or subordinate legislation made under the original, amendment or replacement statute or statutory provision.

2. **THE PROJECT**

- 2.1 The parties acknowledge that the Project is now at a stage whereby, without derogating from the purposes of LTPT specified at clause 5 of the Trust Deed, one ongoing purpose of LTPT is now to preserve the improvements in the water quality of Lake Taupo that have been achieved by the Project to date.

3. **TRUST PERIOD**

- 3.1 For the purposes of clause 4.1 of the Trust Deed Taupo District Council, as sole trustee of LTPT, determines that the Trust Period is extended indefinitely until such time as then current trustee of LTPT determine that LTPT should be wound up under clause 25 of the Trust Deed. The Settlers approve this determination.

4. **VARIATION OF TRUST DEED**

- 4.1 On and from the Operative Date (and contemporaneously with the matters contemplated by clauses 5.1 and 6.1), Taupō District Council, as trustee of LTPT, in exercise of its powers under clause 23 of the Trust Deed and with the consent of the Settlers, varies the terms of the Trust Deed as follows:

- (a) **Clause 3.1: Description of Project Name and Name of Trust**
Name of Trust: The words "with the consent of the Settlers" are deleted from 3.1.

(b) **Clause 7: Appointment of Trustee**

Power of Appointment: Clause 7.2 is deleted and substituted with the following clause:

"7.2 The power of appointment and removal of trustees shall be vested in Taupō District Council."

(c) **Clause 8: Removal of Trustee:**

Clause 8 is deleted.

(d) **Clause 11: Administration of the Trust and Reporting**

Clause 11.1 is deleted and replaced with the following clause:

"11.1 The Trustee will not be required to meet more than once a year".

Clause 11.2 (Voting) is deleted.

Clause 11.4 (Convening Meetings) is deleted.

Clause 11.5 (Quorum) is deleted.

Clause 11.7 (Meetings by Telephone) is deleted.

Clause 11.8 (Minute of Proceedings) is deleted.

Clause 11.9 (Annual General Meeting) is deleted.

Clause 11.11 (Delegation of Powers) is deleted and replaced with:

"11.11 The Trustee may delegate to any employee or contractor of the Trust or Trustee, or any employee of the Chief Executive of Taupō District Council, such of the powers and functions of the Trustee as the Trustee may decide except the power to borrow or raise money or give any security or to purchase property or to lend or advance money by whatever means and in respect of any such delegation:

- (a) any employee or contractor of the Trust or Trustee, or any employee of the Chief Executive of Taupō District Council, acting under delegated power shall act in accordance with the terms of this deed and, in the absence of proof to the contrary, shall also be presumed to be acting within the terms of the delegation;
- (b) the Trustee may revoke wholly or partially any delegation of the powers or functions of the Trustee at any time;
- (c) subject to any directions given by the Trustee, any employee or contractor of the Trust or Trustee, to which any powers of the Trustee have been delegated, shall conduct its affairs as that employee or contractor may decide; and
- (d) the Trustee may provide restrictions within which or rules by which such delegated powers are to be exercised."

(e) **Clause 12: Officers**

Clause 12 is deleted.

(f) **Clause 13: Finance**

Clause 13.2 is deleted.

(g) **Clause 14: Statement of Intent and Reports**

Clause 14.1 is deleted.

Clause 14.2 is deleted and replaced with:

"Reporting

14.2 The Trustee shall prepare and adopt a report, in respect of each financial year, ending on the last day of June, a report on the annual activities and financial position of the Trust.

14.3 After the Trustee has adopted the report under clause 14.2 it shall make that report publicly available free of charge."

Clause 14.3 is deleted and replaced with:

"Governing Law

14.4 The Trust shall be governed by and construed in accordance with the laws of New Zealand."

(h) **Clause 15: Incorporation and Registration**

The final sentence of clause 15.3 is deleted.

(i) **Clause 18: Pecuniary Profit**

In clause 18.1(b) the words "as determined from time to time by the Settlers" are deleted.

(j) **Clause 19: Restrictions on Benefits to and Influence by Interested Persons**

Clause 19.1A is added:

"19A Where Taupo District Council is sole trustee, the act of the Trustee in good faith procuring that the Trust undertake its purposes shall not of itself be interpreted to be in breach of clause 19.1."

(k) **Clause 22: Dealings with Settlers and the Settlers' Decisions**

Clauses 22.1 to 22.4 are deleted.

(l) **Clause 23: Alterations of Terms of Trust Deed**

Clause 23.1: the words "and with the consent of the Settlers" are deleted.

(m) **Clause 25: Winding Up**

Clauses 25.1 and 25.2 are deleted and replaced with:

"25.1 The Trustee may wind up the Trust if the Trustee decides that for any reason it is no longer practicable or desirable to carry out the purposes of the Trust, by the unanimous resolution of the Trustee.

25.2 On the winding up of the Trust all surplus assets, after payment of all costs, debts and liabilities shall be paid, applied or appropriated by the Trustee to or for any Charitable Purpose or purposes within the Lake Taupō Catchment Area."

Clause 25.3 is deleted.

(n) **General**

All other references in clauses 6 to 25 of the Trust Deed to the "Joint Committee" or the "Settlers" are deleted and replaced with a reference to Taupō District Council to the intent that the Settlers are not required to be involved in any further administration of the Trust, notwithstanding any other Term of the Trust Deed, the Project Agreement, or otherwise.

The Trust Deed will otherwise be read and construed on the basis that the Trustee is responsible for the administration of the Trust from the Operative Date and for ensuring that the purposes of the Trust, as set out in clause 5 of the Trust Deed, continue to be undertaken.

It is also recorded that the Settlers, other than Taupō District Council will have no further responsibilities to the Project, whether under the Trust Deed, the Project Agreement or otherwise, but without limiting or affecting their statutory roles, rights, and responsibilities, or Waikato Regional Council's responsibilities under the Monitoring Deed.

The remaining provisions of the Trust Deed are affirmed.

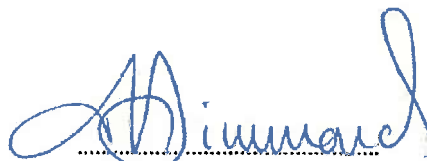
5. FURTHER ASSURANCES AND EXECUTION

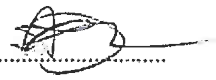
5.1 Each of the parties to this deed agrees to execute and deliver any documents and do all things as may be reasonably required by the other parties to obtain the full benefit of this deed according to its true intent.

5.2 This deed may be signed in one or more counterparts (including electronic counterparts) which together will constitute one instrument.

SIGNED AS A DEED

Signed by **HIS MAJESTY THE KING**)
acting by and through the Minister for)
the Environment in the presence of:


Minister for the Environment

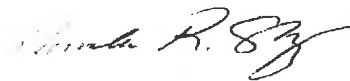
Witness signature: 

Witness name: Alex Doherty

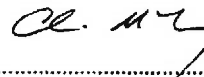
Occupation: Ministerial Advisor

Address: 913 101 Molesworth
Street
Thorndon Wellington.

Signed by **WAIKATO REGIONAL COUNCIL** by:)
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Chairperson



Christopher David Andrew McLay

Chief Executive

in the presence of:

Witness signature: 

Shameen Hickey

Witness name:

Occupation: EA to Chief Executive

Address: 160 Ward Street, Hamilton

The common seal of **TAUPŌ DISTRICT COUNCIL** as Settlor was affixed in the presence of:)
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Mayor

.....
Chief Executive Officer

The common seal of **TAUPŌ DISTRICT COUNCIL** as Trustee was affixed in the presence of:)
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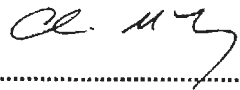
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Mayor

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Chief Executive Officer

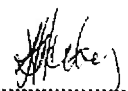
Signed by **WAIKATO REGIONAL COUNCIL** by:)
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Chairperson


..... Christopher David Andrew McLay
Chief Executive

in the presence of:

Witness signature: .....

Sharneen Hickey

Witness name:

Occupation: EA to Chief Executive

Address: 160 Ward Street, Hamilton

The common seal of **TAUPŌ DISTRICT COUNCIL** as Settlor was affixed in the presence of:)
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Mayor

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Chief Executive Officer

The common seal of **TAUPŌ DISTRICT COUNCIL** as Trustee was affixed in the presence of:)
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Mayor

.....
Chief Executive Officer