

## DEED OF VARIATION

Deed number: 25760

Variation number: 1

THIS DEED OF VARIATION is made the 26<sup>th</sup> day of June 2024

### BETWEEN:

THE SOVEREIGN in right of New Zealand, acting by and through the Secretary for the Environment (the Ministry); and

Rotorua Lakes Council (the Recipient)

### BACKGROUND:

- A. The Ministry and the Recipient entered into an agreement (Ministry Deed number 25760) for the delivery of the Lake Tarawera Sewerage Reticulation Scheme Freshwater Improvement Fund Project from 26 October 2022 (the Deed).
- B. The Parties wish to vary the terms of the Deed in accordance with clause 3.2 (Changes) of the Deed.

### THE PARTIES AGREE AS FOLLOWS:

1. The Parties agree to vary the Deed as set out in the attached Schedule of Changes with effect from the Effective Date stated in the Schedule of Changes.
2. Subject to the changes made by this Variation, the terms and conditions of the Deed remain in effect.
3. Words used but not defined in this Variation shall have the same meaning given to them in the Deed.

IN WITNESS WHEREOF the Parties have duly executed and delivered this Variation as a deed on the date set out above.

SIGNED as a deed on: \_\_\_\_\_ 2024

[The date that the Deed is signed is the date at which both Parties have signed the Deed i.e. the date the final party signed the Deed. This date must be handwritten on the Deed by the party who signs the Deed last.]

**NOTE TO SIGNATORIES:** Please initial each page of this Variation and any handwritten changes.

Signed and delivered as a deed by Anne Haira, Deputy Secretary - Policy Implementation and Delivery on behalf of the Ministry for the Environment  
[Signature]  
Signature

On date: 27 June 2024

In the presence of:

[Signature]  
Witness Signature

Kim Ramakers  
Witness Name

EA  
Witness Occupation

8 Willis Street  
Witness Address

Signed and delivered as a deed on behalf of Rotorua Lakes Council in the presence

s 9(2)(a)  
Signature

s 9(2)(a)  
Witness Signature

s 9(2)(a)  
Witness Name

SENIOR PROJECT MANAGER  
Witness Occupation

ROTORUA LAKES COUNCIL  
Witness Address

On date: 26<sup>th</sup> June 2024

Russell Brent George  
Print Full Name  
(For a Local Authority specify Description  
Director/Authorised Signatory)

s 9(2)(a)  
Signature

Eric George Cawte.  
Print Full Name  
(For a Local Authority specify Description  
Director/Authorised Signatory)

[Under the Local Government Act 2002, a Local Authority is a "body corporate" (section 12). The Property Law Act 2007 section 9(3)-(4) sets out the requirements for a body corporate to sign a Deed. This document must be executed in accordance with the enactment forming the Regional Council, District Council or any Constitution for that entity, or otherwise by two directors.]

## **Schedule of Changes**

**Effective Date:** 29 June 2024

### **Changes**

- 1. Part A: Specific and Special Terms**
- 1.1 Term Expiry Date is deleted and replaced with the following:  
30 June 2025



# Memo: Approval for Freshwater Improvement Fund Variation (1) to Deed of Funding with Rotorua Lakes Council

**To:** Anne Haira - Deputy Secretary, Partnerships, Investments, and Enablement

**CC:** Wes Patrick - Manager, Community Investments  
Lorena Stephen - General Manager, Partnerships, and Investments

**From:** Simon Ingram – Senior Analyst, Community Investments

**Date:** 28 May 2024

## Purpose

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1. To seek your approval and obtain your signature for Rotorua Lakes Council's (the Recipient) Variation (1) to the Deed of Funding for Lake Tarawera Sewerage Reticulation Scheme (#25760).

## Background

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### The project

2. The Government has committed \$100 million over 10 years through its Freshwater Improvement Fund (FIF) to improve the management of New Zealand lakes, rivers, streams, groundwater and wetlands. It supports projects with a total value of \$400,000 or more that help communities manage freshwater within environmental limits.
3. In August 2017, the Government announced \$44 million towards 33 projects around the country from the first round of the FIF.
4. Included among these was Rotorua Lakes Council's (RLC's) 'Lake Tarawera Sewage Reticulation and Treatment' project. The project will see the construction of a sewerage scheme to halt the decline of water quality in the iconic Lake Tarawera stemming from leaking septic tanks.
5. The Recipient was awarded a FIF contribution of up to \$6,500,000 (excl. GST) towards total project costs of \$14,022,000.
6. The Project was initially scheduled to begin in 2019/20; however, deed negotiations paused while RLC conducted a public consultation process that took several years to complete. Deed negotiations resumed in 2022.

7. The Deed of Funding was signed on 26 October 2022 by Nadeine Dommissie, Deputy Secretary, Policy Implementation & Delivery and was to be delivered over a maximum timeframe of 13 months with the deed expiring on 31 December 2023.
8. On 25 October 2023, a change request was signed by Wes Patrick, Acting Director – Policy Implementation and Delivery, extending the deed of funding expiry date out to 30 June 2024. The extension was in response to request from RLC for extension, as a review of their scheme design revealed some areas of potential sub-optimum mains lines performance issues that also had flow on effects with pump station operations and design.

### **Reason for variation**

9. The purpose of this variation to seek your approval of a proposed change to the deed of funding:
  - i) To extend the deed of funding expiry date out to 30 June 2025;
10. The FIF contribution under the deed of funding as a percentage of total project costs was agreed as 46.3% on 26 October 2022.
11. As of 24 May 2024, the FIF contribution was sitting more than the agreed percentage (at 79.4%). The imbalance in co-funding has been caused by design changes that have been necessary to optimise the scheme for performance. Had RLC not had to make these necessary changes, their contract spend would have been significantly greater at this stage and the co-funding ratio would have been lower.
12. The Project's contractor has accommodated the design changes into their programme and have provided a completion date, by the end of October 2024. By that stage RLC note construction contract will be complete and the co-funding ratio will be in line with expectations in the deed of funding.
13. This variation to the deed of funding will be the second time extending the expiry date of the Project. To mitigate the chance of any further delays to the Project, the Ministry proposes to extend the completion date of the project out to 30 June 2025.
14. This should be more than enough time for the phase one (construction) of the project to be completed and for the co-funding requirements in the deed of funding to be met. Obviously if the project were to be completed well in advance of June 2025, it can still be closed early.
15. The request for change in this variation to the deed of funding has been deemed as minor, therefore not in need of review by the MfE legal team.
16. The total Freshwater Improvement Fund (FIF) funding contribution for this project is \$6,500,000 (excl. GST) which falls within your financial delegation.
17. The Recipient has agreed to and signed the proposed variation.
18. To complete the agreement, the Ministry for the Environment is now required to sign this variation to the deed of funding (1).

## Risk assessment

19. The requests for change in this variation to the deed of funding have been assessed as low risk to the Ministry.

## Recommendations / Actions

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We recommend that you sign the attached variation to deed of funding #25760 with a total Freshwater Improvement Fund contribution of \$6,500,000 (excl. GST) between the Ministry for the Environment and Rotorua Lakes Council for their project 'Lake Tarawera Sewerage Reticulation Scheme'.

Yes | No | Discuss



**Anne Haira - Deputy Secretary, Partnerships, Investments, and Enablement**

**25 June 2024**



**Lorena Stephen - General Manager, Partnerships, and Investments**

**27 May 2024**



**Wes Patrick - Manager, Community Investments**

**25 May 2024**

Out of Scope