

**TRUST DEED
ESTABLISHING
THE PORIRUA HARBOUR AND CATCHMENT COMMUNITY TRUST**

DATED this 11th day of March 2011

PARTIES

Wiremu Wineera of Porirua City, delegate of Te Runanga O Toa Rangatira

Liz Kelly of Porirua City, Councillor of Porirua City Council

Jenny Brash of Porirua City, Councillor of Greater Wellington Regional Council

Ngairé Best of Wellington City, Councillor of Wellington City Council

Grant Baker of Papakowhai, Porirua City

Lindsay Gow of Whitby, Porirua City

John Morrison of Churton Park, Wellington City

John Wells of Whitby, Porirua City

BACKGROUND

- A. The Porirua Harbour, comprising the Onepoto Arm and the Pauatahanui Inlet and the outer harbour, is the centrepiece of Porirua City. The Harbour contains the largest estuary system in the lower North Island. As well as having a nationally significant wildlife area, the estuary has cultural, recreational, economic, ecological and other values. The whole harbour forms one inter-related, interdependent ecosystem.
- B. The Porirua Harbour catchment stretches 28km from near Pukerua Bay in the north to Johnsonville in the south and the Elsdon/Onepoto ridgeline in the west to the Belmont Regional Park and beyond the ridgeline in the east. It includes the urban areas of Porirua and North Wellington and is dissected by State Highways 1 and 58, and the North Island Main Trunk railway line. It is expected a number of significant developments will occur in the catchment, including an anticipated 50% of the Wellington region's proposed urban growth by 2030.
- C. The Porirua Harbour catchment is administered by three local authorities: Greater Wellington Regional Council, Porirua City Council and Wellington City Council.
- D. Ngati Toa Rangatira have mana whenua status in the area of the Porirua Harbour catchment and are represented by Te Runanga o Toa Rangatira. Ngati Toa have specific traditional and ongoing interests in Porirua Harbour and its catchment, and exercise their role as kaitiaki through customary fishing and resource management processes.

- E. Te Runanga O Toa Rangatira in partnership with Porirua City Council and with Greater Wellington Regional Council, Wellington City Council and other agencies intend to prepare and implement a "Porirua Harbour and Catchment Strategy". The aim of the strategy is to improve management of the harbour and its catchment.
- F. The parties hereto recognise the value of having an independent advocate for Porirua Harbour and its catchment and have agreed to form a Charitable Trust called The Porirua Harbour and Catchment Community Trust.

THIS DEED RECORDS:

1.0 DEFINITIONS

- 1.1 In this Trust Deed the following terms shall mean where the context so requires or admits:

"Appointed Trustees" means those persons who are appointed as members of the Trust Board under clauses 7.10 –7.12.

"Founding Trustees" means the persons named as parties to the Trust Deed.

"Nominated Trustees" means those members of the Trust Board who are appointed under clause 7.2.

"Public notification" means notification in the "Public Notices" column of a newspaper or newspapers circulating in the locality of the Porirua Harbour and catchment or by other appropriate written media.

"Special Meeting" is a meeting at which it is proposed that a Special Resolution be passed.

"Special Resolution" means a resolution passed at a meeting of the Trust Board at which seventy five percent (75%) of the Trustees present and voting, vote in favour of the resolution.

"Trust" means the Trust established by this Trust Deed known as the Porirua Harbour and Catchment Community Trust.

"Trust Board" means the Founding Trustees, Appointed Trustees and Nominated Trustees during their term of office and such other persons as shall be appointed from time to time in substitution therefore or in addition thereto.

"Trust Deed" means the body of this Deed as amended or varied from time to time.

"Trustees" means the individual members of the Trust Board.

"Trust Fund" means all investments, property or cash hereinafter transferred and vested in the Trust Board to be held in accordance with the terms of the Trust Deed.

2.0 GOVERNING LAW

This Trust Deed and the trusts hereof shall be governed by and construed in accordance with the law for the time being in force in New Zealand.

3.0 ESTABLISHMENT OF THE TRUST

- 3.1 The Founding Trustees with a general intention of charity desire to create the Trust.
- 3.2 The Trust shall comprise the Trust Fund from time to time held by or within the control of the Trust Board under the Trust Deed including the income arising from the Trust Fund and any accumulation of such income.
- 3.3 The Trust Fund shall be held on trust by the Trust Board and shall be managed and administered on the terms contained in this Trust Deed.
- 3.4 The Trust shall commence upon execution of the Trust Deed and shall continue until termination under clause 18.0.

4.0 INCORPORATION

- 4.1 The Trust shall be incorporated in accordance with the provisions of the Charitable Trusts Act 1957 and registered with the Registrar of Charities under the Charities Act 2005 under the name of the Porirua Harbour and Catchment Community Trust.
- 4.2 The registered office of the Trust shall be 16 Cobham Court, Porirua 5240.
- 4.3 The address for communication is PO Box 50078, Porirua 5240.

5.0 OBJECTIVES

The objectives of the Trust are to promote the sustainable management of the Porirua Harbour and its catchment by:

- (a) Advocating for the sustainable management of the harbour and its catchment;
- (b) Fostering the understanding of ecological and environmental issues associated with the harbour and its catchment through education and community awareness;
- (c) Coordinating input from community groups on issues relating to the harbour and its catchment;
- (d) Supporting, promoting and contributing to programmes and projects aimed at improvements to the Porirua Harbour and its catchment, where appropriate; and
- (e) Engaging in any other activities and processes that are complementary to any of the forgoing objectives.

6.0 DECLARATION OF TRUST

- 6.1 In furtherance of the objects of the Trust the Trust Board will stand possessed of the Trust Fund in perpetuity and shall hold the Trust Fund and the income earned from the Trust Fund upon the trusts set forth in the Trust Deed including the powers and provisions expressed concerning the same.
- 6.2 The Trust Board is authorised to accept as part of the Trust Fund any gifts, donations, bequests, devises, settlements or other disposition in money or money's worth to or in favour of the Trust Board and may, if appropriate, retain them in their original form without selling or converting the same into money and shall hold all upon trust for the general purposes of the Trust.

7.0 THE TRUST BOARD

- 7.1 The Founding Trustees are the Parties listed at the front of the Trust Deed.
- 7.2 Notwithstanding clause 7.6, the term of appointment of the Founding Trustees shall be for two (2) years. The Founding Trustees shall be eligible for reappointment in accordance with clause 7.5 or 7.11.
- 7.3 The Trust Board shall consist of not less than eight (8) persons and not more than fourteen (14) persons of whom four (4) shall be Nominated Trustees and the remainder Appointed Trustees.
- 7.4 Following registration and incorporation under the Charities Act 2005 and the Charitable Trusts Act 1957 the Founding Trustees shall meet within two (2) months to appoint up to six (6) further Trustees. Before appointing further Trustees the Trust Board shall call for applications in the manner set out in clauses 7.11 and 7.12.
- 7.5 The Nominated Trustees shall comprise:
- (a) One (1) Trustee appointed by Te Runanga O Toa Rangatira Incorporated (or its successor).
 - (b) One (1) Trustee appointed by the Greater Wellington Regional Council (or its successor) from its elected members;
 - (c) One (1) Trustee appointed by the Porirua City Council (or its successor) from its elected members;
 - (d) One (1) Trustee appointed by the Wellington City Council (or its successor) from its elected members;

- 7.6 The Nominated Trustees may be removed and replaced at any time by the respective persons entitled to appoint them.
- 7.7 The Appointed Trustees shall comprise those persons who are appointed to the Trust Board by the Appointments Committee pursuant to clauses 7.10-7.13 or re-appointed by the Trust Board pursuant to clause 7.8.
- 7.8 The term of appointment of each Appointed Trustee shall expire at the end of three (3) years from the date of his or her appointment provided always that he or she shall be eligible for re-appointment by the Trust Board from time to time.
- 7.9 No Appointed Trustee shall hold office continuously for any period exceeding nine (9) years.
- 7.10 The Appointments Committee shall for the first year of the Trust initially comprise the Founding Trustees. Thereafter any Appointments Committee shall consist of up to six (6) Trustees consisting of up to two (2) Nominated Trustees, the Chair of the Trust and up to three (3) Appointed Trustee selected by the Trust Board, as is necessary from time to time provided that the Appointments Committee must not consist of 50% or more of Nominated Trustees appointed by one or more of Greater Wellington Regional Council, Porirua City Council or Wellington City Council.
- 7.11 The Trust Board may from time to time resolve that the Appointments Committee appoint Additional and/or Replacement Trustees.
- 7.12 Additional and Replacement Trustees will be appointed from applications received following public notification, in the manner set out in clause 1.1, within such time as stipulated by the Trust Board.
- 7.13 In considering the appointment of additional or replacement Appointed Trustees, the Appointments Committee shall ensure a balance of interests are represented on the Trust Board at all times, including the interests of community, environmental and recreational groups and private landowners.
- 7.14 The Trust Board may also appoint as advisors to the Trust Board from time to time Advisory Trustees, being persons with specialised knowledge and interests in relation to the objects of the Trust. Such appointments may be reviewed by the Trust Board at any time.
- 7.15 Advisory Trustees shall not be members of the Trust Board by virtue of their appointment as Advisory Trustees.
- 7.16 Every Trustee or Advisory Trustee shall be entitled to seek reimbursement out of the Trust Fund for the reasonable travel, accommodation and other expenses properly incurred by the Trustee or Advisory Trustee in attending meetings of the Trust Board or while engaged on the activities of the Trust Board and which are approved by Special Resolution at a duly convened special meeting of the Trust Board.

8.0 DISQUALIFICATION OF MEMBERS OF THE TRUST BOARD OR ADVISORY TRUSTEES

The appointment of any Trustee or Advisory Trustee shall immediately cease if he or she:

- (a) Is disqualified from being an Officer under section 16 of the Charities Act.
- (b) Becomes bankrupt or suspends payment or compounds with his or her creditors generally;
- (c) Is declared or found to be mentally disordered or is confined as a mentally disordered person or becomes of unsound mind or incapable of performing his or her duties;
- (d) By giving three (3) months notice in writing to the Trust Board resigns office;
- (e) Dies;
- (f) Without leave of the Trust Board is absent more than fifty per cent (50%) of meetings of the Trust Board held pursuant to clause 9.2 or clause 9.3 over a twelve (12) month period; or
- (g) Is guilty of any grave misconduct likely to reflect unfavourably upon or damage the reputation of the Trust Board and the Trust Board resolves by Special Resolution that her or his appointment should immediately cease as a result.

9.0 PROCEEDINGS OF THE TRUST BOARD

- 9.1 To the extent not otherwise provided for in the Trust Deed the Trust Board may from time to time make such regulations as to its meetings and as to its proceedings (including the appointment of subcommittees and delegations of its powers) as it shall think fit.
- 9.2 The Trust Board shall hold its first meeting within two (2) months from the date of execution of the Trust Deed and shall meet at least every two (2) months thereafter.
- 9.3 Subsequent meetings of the Trust Board shall be held at such times and places as are appointed:
- (a) By the Chairperson; or
 - (b) By a majority of the Trustees;
- and shall be preceded (unless such requirement be waived) by fourteen (14) days notice in writing to the Trustees entitled to attend any such meeting.
- 9.4 The quorum necessary for a special meeting of the Trust Board shall be seventy five percent (75%) of the number of Trustees.

- 9.5 Subject to clause 9.4 the quorum necessary for the transaction of business at meetings of the Trust Board shall be the majority of the number of Trustees, or four (4) Trustees, whichever is greater.
- 9.6 Questions arising at any meeting of the Trust Board shall be decided by a majority of votes. Each Trustee shall have one vote and a determination by a majority of Trustees present shall for all purposes be deemed a determination of the Trust Board. In case of an equality of votes the Chairperson shall have a second or casting vote. Nothing in this clause shall apply to any business or question which must be transacted or determined by the Trust Board by way of Special Resolution.
- 9.7 Any business which may be done by the Trust Board at a meeting may be done by a Special Resolution passed, without a meeting or any previous notice being required, by means of an entry in the Trust Board's minute book signed by at least seventy five percent (75%) of the Trustees. A copy of a Special Resolution signed by a Trustee and transmitted by facsimile shall be accepted as due compliance with the provision of this clause for the purposes of entry of a resolution in the Trust Board's minute book. If such a procedure is adopted the Secretary of the Trust Board shall within fourteen (14) days after any resolution is passed in this manner send to every Trustee by or on behalf of whom the entry has not been signed a copy thereof, including the signatures.
- 9.8 Advisory Trustees shall be entitled to be present (other than when the Trust Board is in committee) and speak at meetings of the Trust Board but shall not be entitled to vote.
- 9.9 The Trust Board may act for all purposes notwithstanding any vacancy in their number and all proceedings at any meeting of the Trust Board shall be valid and effectual notwithstanding that it may afterwards be discovered that any Trustee is not properly qualified.
- 9.10 The Founding Chairperson shall be elected by the Founding Trustees and shall hold office until the first Annual General Meeting of the Trust Board at which he or she shall be eligible for re-election to that office. At each subsequent Annual General Meeting of the Trust Board the Trust Board shall elect a Chairperson who shall hold office for that year. If at any meeting the Chairperson is not present within fifteen (15) minutes after the time appointed for holding the meeting the Trustees present may choose one of their number to be Chairperson of the meeting.
- 9.11 The Trust Board shall appoint a Secretary and shall cause minute books to be kept of the proceedings at meetings of the Trust Board and shall cause entries to be made therein of all resolutions put to the vote and of the result of the voting and any such minutes signed by the Chairperson or by a Trustee appointed by the Trust Board for that purpose and who was present at the meeting shall be conclusive evidence of the due passing of any resolution and the amount of the majority voting in favour thereof.
- 9.12 The Trust Board shall hold an Annual General Meeting in every year within three (3) months of the end of the financial year for the purposes of electing a Chairperson, receiving and approving the annual report and financial

statements of the Trust, and, to appoint an auditor and for such other general business as the Trust Board shall think fit. The Trust Board shall give not less than three (3) weeks prior notice of such meeting by public notification.

10.0 TRUST BOARD POWERS

The Trust Board shall have the following powers.

- (a) To employ such staff as may be necessary to administer the affairs of the Trust Board.
- (b) To do all such acts or things as shall be necessary to enable the Trust Board to carry out the objects of the Trust.
- (c) To expend money from the income and the capital of the Trust Fund to achieve the objects of the Trust
- (d) To promote or undertake research and any and all such other powers as considered are necessary, desirable or likely to facilitate the attainment of the objects of the Trust.

11.0 PERSONAL BENEFIT

- 11.1 Any income, benefit or advantage shall be applied to the objectives of the Trust.
- 11.2 No Trustee or any person associated with a Trustee or an Advisory Trustee shall participate in or materially influence any decision made by the Trust Board in respect of the payment to or on behalf of that trustee or Advisory Trustee or associate person of any income, benefit, of advantage whatsoever. Any such income paid shall be reasonable and relative to that which would be paid in an arms length transaction (being open market value).
- 11.3 It shall be the duty of a Trustee or Advisory Trustee who is in any way directly or indirectly interested in any contract or other matter with the Trust Board to declare the nature of his or her interest at the meeting of the Trust Board at which the contract or matter is under discussion, but failure to do so will not disqualify the Trustee or invalidate the contract or any other matter in which their interest lies.
- 11.4 A Trustee who is interested shall not be entitled to vote on any issue related to the contract or matter in which the interest lies.
- 11.5 A Trustee shall be deemed to have an interest in any matter in which he or she would be reasonably be regarded as likely to be influenced materially to prefer interests other than those of the Trust, or any other affected party, for reasons of personal advantage or the advantage of business or family associates.
- 11.6 If any question shall arise at any meeting as to the materiality of a Trustee's interest or as to the entitlement of any Trustee to vote and such question is not resolved by the Trustee voluntarily agreeing to abstain from voting, such

question shall be referred to the Chairperson of the meeting and his or her ruling in relation to any such Trustee shall be final and conclusive.

11.7 The provisions and effects of clauses 11.1 to 11.6 (inclusive) and this clause 11.7 shall not be removed from this deed and shall be implied into any document replacing this deed.

12.0 LIABILITY FOR BREACHES OF TRUST

No Trustee or subcommittee purporting to exercise its powers hereunder shall be liable for any loss unless attributable either to the dishonesty of that person or to the wilful commission or omission of any act known by that person to be a breach of trust.

13.0 LIMITATION OF LIABILITY OF THE TRUST BOARD

The liability of the Trust Board or any Trustee shall at all times be limited to the assets of the Trust.

14.0 BANK ACCOUNT

The Trust Board shall maintain a bank account for the Trust at such bank as shall from time to time be nominated by the Trust Board. All moneys belonging to the Trust Board shall as and when received be paid into or deposited with such bank to the credit of such account. All cheques and other negotiable instruments shall be drawn in the name of the Trust Board and shall be signed, countersigned or endorsed in such manner as the Trust Board shall determine from time to time and at no stage shall it be less than two (2) Trustees.

15.0 BOOKS OF ACCOUNT

15.1 The Trust Board shall keep or cause to be kept proper accounts in respect of all receipts and payments on account of the Trust Board and of all dealings connected therewith. As soon as practicable after the end of each year the Trust Board shall prepare or cause to be prepared a statement showing the financial position of the Trust Board at the conclusion of that year including a Statement of the Financial Position and a Statement of Financial Performance for that year and shall publish such statements as part of an annual report to the Trust Board.

15.2 The financial year shall commence on the 1st day of July in each and every year and conclude on the 30th day of June in the following year.

16.0 AUDIT

A person appointed by the Trust Board shall audit the books of account as soon as convenient after the conclusion of each financial year.

17.0 AMENDMENTS TO TRUST DEED

17.1 Subject to the other provisions of this clause 17, the Trust Board may, at any time or times, by deed first authorised by a Special Resolution at a properly convened meeting of the Trust Board for which public notification has been

given, revoke add to or vary all or any of the Trust's beneficial interests powers and discretions set out in the Trust Deed.

- 17.2 No part of the Trust Fund or the income from the Trust Fund shall become subject to any trusts other than trusts for charitable purposes.
- 17.3 The Trust Board must obtain the prior written approval of the Inland Revenue Department to any proposed removal or amendment of clause 5(Objectives), clause 11.7 (Personal benefit) or clause 19.0 (Termination) prior to passing any Special Resolution pursuant to clause 17.1 in respect of such same.
- 17.4 When considering any proposed variation to the Trust Deed the Trust Board shall as far as practicable preserve the integrity of the Trust's original purpose and intent by departing from such purpose only to such extent as may be considered necessary or desirable given changed circumstances in order to fulfil objectives as nearly and closely aligned as possible with the Trust's original purpose and intent.
- 17.5 The provisions and effects of this clause 17, shall not be removed from this document and shall be included and implied into any document replacing this document.

18.0 COMMON SEAL

Upon incorporation of the Trust in accordance with clause 4.0 the Trust Board shall procure a common seal for the Trust and shall provide for its custody. Any document required to be signed under the common seal shall be attested to by any two (2) Trustees.

19.0 TERMINATION

- 19.1 The Trust shall terminate and be liquidated and dissolved if:
- (a) the Trust Board resolves by Special Resolution that the Trust shall be liquidated, or
 - (b) the Trust is liquidated by law.
- 19.2 Following a Special Resolution to liquidate the Trust the Trust Board shall realise or dispose of the Trust Fund as soon as reasonably practicable in accordance with clause 19.3.
- 19.3 The Trust Fund or the proceeds resulting from the trust fund shall be applied by the Trust Board upon the liquidation in the following order:
- (a) first in meeting all costs, expenses and liabilities of the Trust, including the costs and expenses of liquidating the Trust, and setting aside any amount that the Trust Board considers necessary or desirable (having regard to generally accepted accounting practices) in respect of any contingent liability of the Trust, and

(b) secondly in the payment or distribution (by instalments if the Trust Board considers it appropriate) of the remaining Trust Fund to another charitable organisation in the Porirua City Region approved by the Trust Board as being as similar as is practicable to those for which the Trust was established.

19.4 If pursuant to sub clause 19.3(b) the Trust Board is unable to decide on the recipient or recipients of the remaining trust fund then the remaining trust fund shall be disposed of in accordance with the directions of the High Court pursuant to section 27 of the Charitable Trusts Act 1957.

19.5 Subject to the provisions of clause 19.1(a), on liquidation no part of the Trust Fund shall be paid, applied or transferred except in accordance with the objects of the Trust, and no private pecuniary profit, benefit or advantage shall be made by any Trustee from the Trust, except in accordance with clauses 7.16 and 10(a).

THIS DEED WITNESS

Signed by *Wirauna Wirauna*)
as Trustee)
in the presence of:)



Witness signature:




Witness name:

Daniel L. Beker
Solicitor
Wellington & Porirua City

Occupation:

Address:

Signed by *Lia Kelly*)
L. Kelly)
as Trustee)
in the presence of:)



Witness signature:



Witness name:

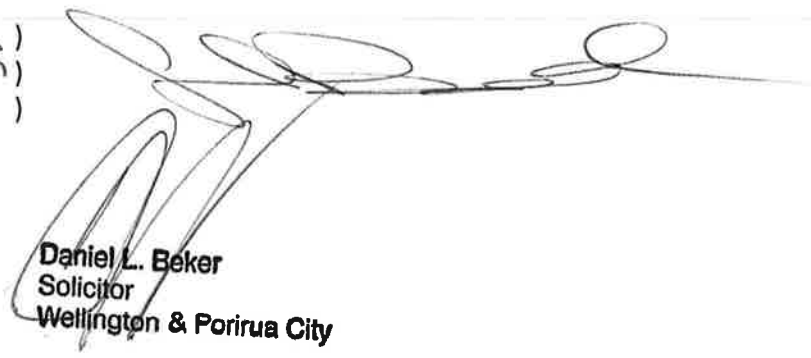
Daniel L. Beker
Solicitor
Wellington & Porirua City

Occupation:

Address:



Signed by *Jenny*)
as Trustee *Brash*)
in the presence of:)



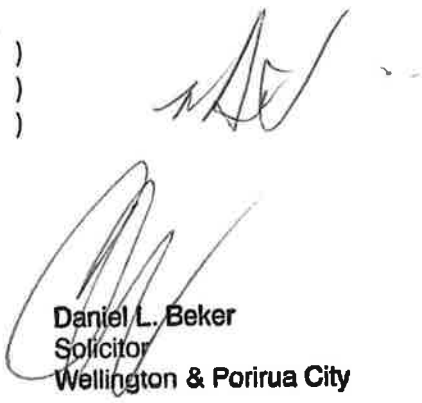
Witness signature:

Witness name:

Occupation:

Address:

Signed by *Ngairi Best*)
as Trustee)
in the presence of:)



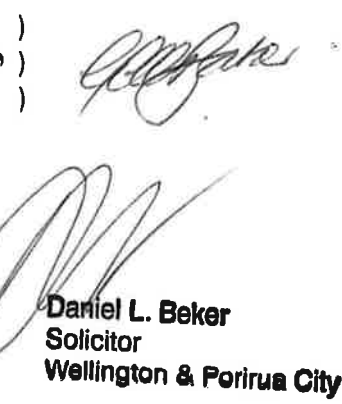
Witness signature:

Witness name:

Occupation:

Address:

Signed by *Grant*)
as Trustee *Andrew Aaron*)
in the presence of: *Baker* .)



Witness signature:

Witness name:

Occupation:

Address:

Signed by
as Trustee
in the presence of:

Lindsay Gray

[Handwritten signature]

Witness signature:

Witness name:

Occupation:

Address:

Daniel L. Beker
Solicitor
Wellington & Porirua City

Signed by
as Trustee
in the presence of:

John Morrison

[Handwritten signature]

Witness signature:

Witness name:

Occupation:

Address:

Daniel L. Beker
Solicitor
Wellington & Porirua City

Signed by
as Trustee
in the presence of:

John Wells

[Handwritten signature]

Witness signature:

Witness name:

Occupation:

Address:

John P. Gray
Solicitor
Wellington & Porirua City