

**MINUTES OF WESTERN BAY OF PLENTY DISTRICT COUNCIL  
COUNCIL MEETING NO. CL23-16  
HELD IN THE COUNCIL CHAMBERS, 1484 CAMERON ROAD, TAURANGA  
ON THURSDAY, 26 OCTOBER 2023 AT 9.30AM**

## 1 KARAKIA

Whakatau mai te wairua	Settle the spirit
Whakawātea mai te hinengaro	Clear the mind
Whakarite mai te tinana	Prepare the body
Kia ea ai ngā mahi	To achieve what needs to be achieved.
Āe	Yes

## 2 PRESENT

Mayor J Denyer (Chairperson), Deputy Mayor J Scrimgeour, Cr T Coxhead, Cr R Crawford, Cr G Dally, Cr A Henry, Cr R Joyce, Cr M Murray-Benge, Cr D Thwaites and Cr A Wichers.

### VIA ZOOM

Cr M Grainger and Cr A Sole.

## 3 IN ATTENDANCE

J Holyoake (Chief Executive Officer), R Davie (Deputy CEO/General Manager Strategy and Community), C Crow (General Manager Infrastructure Group), A Curtis (General Manager Regulatory Services), A Henderson (General Manager Corporate Services), G Golding (Governance Manager), C Nepia (Strategic Kaupapa Māori Manager), J Rickard (Community and Strategic Relationships Manager), A Ali (Chief Financial Officer), C Gaunt (Kaimahere Matua - Senior Kaupapa Māori Planner), H Wi Repa (Governance Systems Advisor), P Osborne (Senior governance Advisor) and C Irvin (Senior Governance Advisor).

### OTHERS IN ATTENDANCE

#### Tawhitinui Marae and Papakāinga

Merehine Waiari  
Veronica Waiari (Marae Trustee)  
Jasmine Waiari (Chair of Ahu whenua Trust)  
Brian Nicholas (Chair of Marae Trust)  
Nicolas Lee (Trustee of Ahu Whenua Trust)

Tourism Bay of Plenty (TBOP)

Oscar Nathan (General Manager)

Clare Swallow (Trustee)

Richard Faire (Head of Strategy and Insights)

One member of the press.

**4 APOLOGIES**

Nil

**5 CONSIDERATION OF LATE ITEMS**

Nil

**6 DECLARATIONS OF INTEREST**

Nil

**7 PUBLIC EXCLUDED ITEMS**

Nil

**8 PUBLIC FORUM**

Nil

**9 COMMUNITY BOARD MINUTES FOR RECEIPT**

**9.1 MINUTES OF THE KATIKATI COMMUNITY BOARD MEETING HELD ON 20 SEPTEMBER 2023**

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**RESOLUTION CL23-16.1**

Moved: Cr A Henry

Seconded: Cr R Joyce

1. That the Minutes of the Katikati Community Board Meeting held on 20 September 2023 be received.

**CARRIED**

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**9.2 MINUTES OF THE ŌMOKOROA COMMUNITY BOARD MEETING HELD ON 26 SEPTEMBER 2023**

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**RESOLUTION CL23-16.2**

Moved: Cr D Thwaites

Seconded: Cr M Murray-Benge

1. That the Minutes of the Ōmokoroa Community Board Meeting held on 26 September 2023 be received.
2. That the Chairperson's electronic signature be inserted into the confirmed minutes.

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**CARRIED**

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**9.3 MINUTES OF THE TE PUKE COMMUNITY BOARD MEETING HELD ON 28 SEPTEMBER 2023**

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**RESOLUTION CL23-16.3**

Moved: Cr A Wichers

Seconded: Cr G Dally

1. That the Minutes of the Te Puke Community Board Meeting held on 28 September 2023 be received.

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**CARRIED**

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**9.4 MINUTES OF THE MAKETU COMMUNITY BOARD MEETING HELD ON 3 OCTOBER 2023**

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**RESOLUTION CL23-16.4**

Moved: Cr R Crawford

Seconded: Deputy Mayor J Scrimgeour

1. That the Minutes of the Maketu Community Board Meeting held on 3 October 2023 be received.
2. That the Chairperson's electronic signature be inserted into the confirmed minutes.

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**CARRIED**

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**9.5 MINUTES OF THE WAIHĪ BEACH COMMUNITY BOARD MEETING HELD ON 9 OCTOBER 2023**

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**RESOLUTION CL23-16.5**

Moved: Cr T Coxhead

Seconded: Cr A Henry

1. That the Minutes of the Waihī Beach Community Board Meeting held on 9 October 2023 be received.
2. That the Chairperson's electronic signature be inserted into the confirmed minutes.

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**CARRIED**

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**10 COUNCIL AND COMMITTEE MINUTES FOR CONFIRMATION****10.1 MINUTES OF THE STRATEGY AND POLICY COMMITTEE MEETING HELD ON 28 SEPTEMBER 2023**

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**RESOLUTION CL23-16.6**

Moved: Mayor J Denyer

Seconded: Cr R Crawford

1. That the Minutes of the Strategy and Policy Committee Meeting held on 28 September 2023 be confirmed as a true and correct record and the recommendations therein be adopted.

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**CARRIED**

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**10.2 MINUTES OF THE COUNCIL MEETING HELD ON 3 OCTOBER 2023**

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**RESOLUTION CL23-16.7**

Moved: Mayor J Denyer

Seconded: Deputy Mayor J Scrimgeour

1. That the Minutes of the Council Meeting held on 3 October 2023 be confirmed as a true and correct record and the recommendations therein be adopted.
2. That the Chairperson's electronic signature be inserted into the confirmed minutes.

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**CARRIED**

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## 11 REPORTS

### 11.1 RETURN OF UNFORMED ROAD TO TAWHITINUI MARAE AND PAPA KĀINGA

Council considered a report dated 26 October 2023 from the Kainarhere Matua.

Merehine Waiari, Veronica Waiari (Marae Trustee), Jasmine Waiari (Chair of Ahu whenua Trust), Brian Nicholas (Chair of Marae Trust), Nicolas Lee (Trustee of Ahu Whenua Trust) from Tawhitinui Marae and Papakāinga were in attendance in support of this report.

“Ka tū te Kaiwhakahaere Kaupapa Māori a Chris Nepia te mihi atu ki ngā manuhiri kua tatu mai ki te Kaunihera i runga i te kaupapa whakahirahira. Ko tātā i kī atu, he roa te wā e hia nei te whānau o Tawhitinui kia hoki mai ngā whenua kua noho nei kei raro i te mana ā te Kaunihera. I whakaaro anō a Chris ki a rātou ngā mate o te wā, ā i whakaingoatia e ia te Rangatira a Wharekonehu (Horace) Te Moni, nānā he mema o ngā roopu Tangata Whenua ki roto i te Kaunihera, nānā anō i mate i ngā rangi tata ki te wā o te hui”

Chris Nepia (Strategic Kaupapa Māori Manager) welcomed the trustees of the land blocks at Tawhitinui acknowledging the significance of the decision before Council and the desire of the whānau at Tawhitinui to see the kaupapa through by having the paper rounds around them vested in their ownership. He also acknowledged those that had passed recently including Wharekonehu (Horace) Te Moni who was a long standing member of Council’s Tangata Whenua partnership forums.

The Kainarhere Matua took the report as read and acknowledged the guests attending today from Tawhitinui Marae and Papakāinga and the work they had done regarding this matter.

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#### RESOLUTION CL23-16.8

Moved: Cr D Thwaites

Seconded: Cr M Murray-Benge

1. That the Kaimahere Matua’s report dated 26 October 2023 titled ‘Return of Unformed Road to Tawhitinui Marae and Papakāinga’ be received.
  2. That the report relates to an issue that is considered to be of low significance in terms of Council’s Significance and Engagement Policy.
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3. That Council approve the commencement of the legislative process to stop and dispose of the sections of unformed road shown as A-D on **Attachment 1** of this report.
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4. That, if the road stopping is successful, Council approves the transfer of the sections of unformed road in the manner set out below, noting that this will be at no cost to the respective trustees:
- i) Section A on **Attachment 1** (of this report) to the trustees of Tawhitinui Marae Reservation
  - ii) Section B on **Attachment 1** (of this report) to the trustees of Tawhitinui Papakāinga Reservation
  - iii) Sections C and D on **Attachment 1** (of this report) to the trustees of the Wiri (William) Nicholas Ahu Whenua Trust

**CARRIED**

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9:42am The meeting adjourned.

10.02am The meeting reconvened.

## 11.2 ELECTED MEMBER'S CODE OF CONDUCT 2023-2025

Council considered a report dated 26 October 2023 from the Governance Manager who took the report as read.

Elected Members comments and questions:

- The wording around the complaints process was unclear and needed to be clarified.
  - What would happen if the LGNZ link was updated/changed by Local Government New Zealand?
  - Councillors expressing their personal views was a risk. What was the expectation and how should this be managed?
  - Would a complainant be entitled to have an independent investigator if they wanted this?
  - A substantive part of Elected Member's commitment (point 4 - 'Members Comittment') being the 'Principles of Te Tiriti o Waitangi', was not set out in the
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document, making it difficult to understand what principles Elected Members were supposed to recognise and operate under.

- Was the Local Government New Zealand's Code of Conduct a key template and should this document be the one Elected Members use?
- The 'Process for Determining and Investigating Complaints' flow chart and the appointing of an initial assessor needed to be clarified.
- The term 'authorised to speak' needed to be clarified so that Elected Members could understand what that really meant.
- The wording around 'Bullying, Harassment and Discrimination' needed to be reworded for more clarity.

The Governance Manager made the following comment:

- It was understood that the Code of Conduct template was updated every triennium and that if this changed, Local Government New Zealand would inform council's of this.

The Mayor made the following comments:

- When making public comments, Elected Members needed to be aware that their comments might be perceived as coming from Council. Therefore, it was important to maintain clarity if they were not, in particular if they were political.
- Elected Members had provided specific feedback at the Code of Conduct workshop that the Chief Executive Officer should be consulted first in the complaints process.
- The overall substance of Code of Conduct was for Elected Members to use 'proper judgement'.
- To clarify what 'authorised to speak' meant and gain a better understanding around this, Elected Members would need to have a further, separate discussion.

The General Manager Strategy and Community made the following comments:

- There had been a number of queries from Elected Members that highlighted the broadness of some references in the Code of Conduct, however, if every 'nuance' was addressed it would result in a much longer document.
- Overall, this document was about using common sense, and the responsibility of Elected Members to objectively hold themselves and each other to the standards of behaviour that would naturally be expected from someone in the office that they held.

- In the ordinary course of a complaint process, if an investigator was required, an independent entity would be engaged .
- Te Tiriti principles were a creature of common law, subject to change over time and challenging to articulate. However, overall, this was about using common sense.

The Chief Executive Officer made the following comments:

- The updated Code of Conduct was very similar to the current Code of Conduct in terms of process, responsibilities and risks around processes, which had not been an issue.
- The values in the document reflected that at the heart of this was the process of natural justice about applying the right processes, doing the right thing and treating people fairly. In essence, nothing had changed about relationships and behaviours and how we should treat each other.
- There were some minor editing changes that could be worked through but at heart of this was natural trust amongst each other and natural justice.
- It was good practice to have a list of independent investigators to remove bias. During a process, the most appropriate person would be sought and clarity from all parties obtained that they were happy with this appointment. The inclination was always to appoint an independent assessor.

Given the discussion and uneasiness some Elected Members felt towards the updated Code of Conduct, it was suggested it 'lie on the table' at this point in time.

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#### **RESOLUTION CL23-16.9**

Moved: Cr G Dally

Seconded: Cr R Joyce

1. That the report and its recommendations lie on the table.

**CARRIED**

A division was called and recorded as follows:

In Favour: Crs T Coxhead, G Dally, M Grainger, A Henry, R Joyce, M Murray-Benge, A Sole and A Wichers

Against: Crs J Denyer, J Scrimgeour, R Crawford and D Thwaites

**CARRIED 8/4**

### **11.3 TOURISM BAY OF PLENTY ANNUAL REPORT 2022-2023 AND LETTER OF EXPECTATION 2024-2025**

Council considered a report dated 26 October 2023 from the Community and Strategic Relationships Manager who took the report as read.

Guest presenter Clare Swallow (TBOP Trustee) thanked Council for its relationship building and ongoing work and, along with Oscar Nathan (General Manager TBOP) and Richard Faire (Head of Strategy and Insights TBOP) responded to questions as follows:

- TBOP had \$600,000 reduced from its bottom line since the beginning of the financial year. The reserve operated like a buffer and was very much a 'sinking lid'.
  - TBOP had ideas and plans for Maketu that included the cultural importance of Maketu from a Te Arawa, waka landing position and community activities that visitors could be informed about. A network of digital kiosks were being established around the area. This needed to be workshopped further to establish what the community wanted.
  - The Green Room had been delivering very good outcomes in terms of helping people to understand sustainability and the benefits of this socially and financially on their businesses.
  - It was important to see 'Flavours of Plenty' as a platform rather than an event to ensure ongoing community support throughout the year.
  - TBOP was working on a satisfaction survey and looking at the methodology in terms of design. Tourism meant different things to different people. It included aspects such as sentimentality and was important to get right in terms of what people wanted. More funding was needed to be able to extend the survey right across the Western Bay district.
  - TBOP had had its first round on the revised strategy for TECT park. It was made very clear that it needed to also become a visitor park and not just a users park, or at the very least have visitor park element added to it. It was felt that a centralised café and 'outfitters store' would be a good starting point as this would draw visitors into the space in the first instance.
  - TBOP had an ongoing working relationship with Waihi Promotions. A clear proposition needed to be established to work together regarding Auckland in terms of the domestic market.
  - Tarnished Frocks and Divas was a great event. TBOP could reach out to people about getting it up and running again.
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- TBOP's understanding was that 50% of cruise ship passengers stayed in and around Mount Maunganui area. Mount Maunganui main street shops were boutique shops which worked well with cruise ship passengers. There were quite a few day-time tourist operators at the Mount port dock who took visitors out and about around the Bay of Plenty as well.
- The ferry would not be operating this season because it was up on the dry dock. Several entities, including Bay of Plenty Regional Council, were looking into proper ferry services which would also help in getting people off the roads.

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**RESOLUTION CL23-16.10**

Moved: Cr M Murray-Benge

Seconded: Cr A Henry

1. That the Community and Strategic Relationships Manager's report dated 26 October 2023 titled 'Tourism Bay of Plenty Annual Report 2022-2023 and Letter of Expectation 2024-2025' be received.
2. That the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.
3. That Council receives the Tourism Bay of Plenty Annual Report 2022-2023, included as **Attachment 1** to this report, to be published on Council's website.
4. That Council directs staff to prepare a Letter of Expectation for Tourism Bay of Plenty for the 2024-2025 year which covers the following areas of focus:
  - a. Regenerative tourism: a focus on tourism that has net benefits for the environment and local communities, in accordance with Tourism Bay of Plenty's Destination Management Plan;
  - b. Walkways and cycleways promotion as a key visitor attraction;
  - c. Support with implementation of the TECT Park Strategic Plan;
  - d. Growing the 'Flavours of Plenty' festival within Western Bay of Plenty communities.
  - e. Support for the development of local tourism opportunities in Maketu, Waihi Beach, Katikati and Te Puke.

**CARRIED**

**11.4 WAIKATO LOCAL AUTHORITY SHARED SERVICES LTD (CO-LAB) ANNUAL REPORT FY2023**

Council considered a report dated 26 October 2023 from the Financial Analyst who took the report as read.

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**RESOLUTION CL23-16.11**

Moved: Cr A Henry

Seconded: Cr A Sole

1. That the Financial Analyst's report dated 26 October 2023 titled 'Waikato Local Authority Shared Services Ltd (Co-Lab) Annual Report FY2023' be received.
2. That Council receives the Waikato Local Authority Shared Services Ltd (Co-Lab) Annual Report FY2023, included as **Attachment 1** to this report, to be published on Council's website.

**CARRIED**

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**11.5 NEW ZEALAND LOCAL GOVERNMENT FUNDING AGENCY LIMITED ANNUAL REPORT 2022-2023**

Council considered a report dated 26 October 2023 from the Financial Analyst who took the report as read.

Staff responded to questions as follows:

- Council was surrounded in covenants in terms of what it could and could not do as a member of the Local Government Funding Agency.
  - If Council was not a member of this organisation, it would be conventionally borrowing or looking at other ways to get funding. This agency was set up to provide the most cost effective way of getting funds to councils.
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**RESOLUTION CL23-16.12**

Moved: Cr M Murray-Benge

Seconded: Deputy Mayor J Scrimgeour

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1. That the Financial Analyst's report dated 26 October 2023 titled 'New Zealand Local Government Funding Agency Limited Annual Report 2022-2023' be received.
2. That Council receives the New Zealand Local Government Funding Agency Limited Annual Report 2022-2023, included as **Attachment 1** of this report, to be published on Council's website.

**CARRIED**

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#### **11.6 BAY OF PLENTY LOCAL AUTHORITY SHARED SERVICES LIMITED (BOPLASS) ANNUAL REPORT 30 JUNE 2023**

Council considered a report dated 26 October 2023 from the Financial Business Partner who took the report as read.

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#### **RESOLUTION CL23-16.13**

Moved: Mayor J Denyer

Seconded: Cr R Crawford

1. That the Financial Business Partner's report dated 26 October 2023 titled 'Bay of Plenty Local Authority Shared Services Limited (BOPLASS) Annual Report' be received.
2. That Council receives Bay of Plenty Local Authority Shared Services Limited's (BOPLASS) Annual Report for the year ended 30 June 2023, included as **Attachment 1** of this report.

**CARRIED**

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#### **11.7 MAYOR'S REPORT TO COUNCIL**

Council considered a report dated 26 October 2023 from the Senior Executive Assistant to Mayor/CEO. The report was taken as read.

The Mayor responded to questions as follows:

- The meeting with New Zealand Rail was primarily for relationship building, however some of the Western Bays aspirations were expressed.

The Deputy Mayor responded to a question as follows:

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Bay of Plenty Agricultural Advisory Committee, Te Puke:

- Production had been down massively last season. So far this season production had been much better, in particular for kiwifruit. There was a lot more labour around and generally speaking there was much overall improvement over the last twelve months.

**RESOLUTION CL23-16.14**

Moved: Mayor J Denyer

Seconded: Cr A Henry

That the Senior Executive Assistant to Mayor/CEO's report dated 26 October 2023 titled 'Mayor's Report to Council' be received.

**CARRIED**

**12 INFORMATION FOR RECEIPT**

Nil

**13 RESOLUTION TO EXCLUDE THE PUBLIC****RESOLUTION TO EXCLUDE THE PUBLIC****RESOLUTION CL23-16.15**

Moved: Cr A Henry

Seconded: Cr R Joyce

That the public be excluded from the following parts of the proceedings of this meeting. The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48 for the passing of this resolution</b>
<b>13.1 - Confidential Minutes of the Council Meeting held on 3 October 2023</b>	s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to

	<p>that of deceased natural persons</p> <p>s7(2)(f)(ii) - the withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of Council members, officers, employees, and persons from improper pressure or harassment</p> <p>s7(2)(g) - the withholding of the information is necessary to maintain legal professional privilege</p> <p>s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities</p>	<p>result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7</p>
<p><b>13.2 - Tourism Bay of Plenty Appointment of Trustees</b></p>	<p>s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p>	<p>s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7</p>
<p><b>CARRIED</b></p>		

**ITEM TRANSFERRED INTO OPEN SECTION****13.2 TOURISM BAY OF PLENTY APPOINTMENT OF TRUSTEES**

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**RESOLUTION CL23-16.16**

Moved: Mayor J Denyer

Seconded: Cr M Murray-Benge

1. That the Community and Strategic Relationship Manager's report dated 26 October 2023 titled 'Tourism Bay of Plenty Appointment of Trustees' be received.
2. That the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.
3. That Council:
  - a) Approves the reappointment of Jason Hill as Trustee to the Tourism Bay of Plenty Board, effective 1 May 2024 for one year until 30 April 2025.
  - b) Approves the appointment of Andrea Webster as the Mana Whenua representative to the Tourism Bay of Plenty Board for a three-year term, effective 7 November 2023 to 30 November 2025, subject to approval by Tauranga City Council as joint shareholder.
  - c) Notes (in consideration of Section 80 of the Local Government Act 2002) that while the process for appointing Jason Hill and Andrea Webster is inconsistent with Council's Appointment of Directors onto Council Organisations Policy, the circumstances outlined in the report provide sufficient rationale for this inconsistency. There is no intention to amend the policy to accommodate this particular decision.
4. That Council approves the appointment of Clare Swallow as Deputy Chair to the Tourism Bay of Plenty board, effective immediately, for 19 months to 30 April 2025.
5. That Council notes the reappointment of Jason Hill and appointment of Clare Swallow as deputy chair were approved by Tauranga City Council as joint shareholder of Tourism Bay of Plenty at its Council meeting on 25<sup>th</sup> September 2023.
6. That the appointment of Clare Swallow as Deputy Chair and the reappointment of Jason Hill as trustee be transferred to the open section of the meeting once the applicants have been notified.
7. That the appointment of Andrea Webster as mana whenua representative be transferred to the open section of the meeting once TCC has made their decision on her appointment.

**CARRIED**

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**The Meeting closed at 11.43.**

**Confirmed as a true and correct record at the Council meeting on 23 November 2023.**

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Mayor J Denyer  
**CHAIRPERSON / MAYOR**

unconfirmed