

# MEETING — AGENDA —

*Ngā Take*

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Western Bay of Plenty  
District Council

## COUNCIL

*Te Kaunihera*

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**INAUGURAL MEETING**

**C-IN**

**Thursday, 10 November 2016**

**Te Puke War Memorial Hall**

**Jellicoe Street, Te Puke**

**1:30pm**

# Notice of Meeting No C-IN Te Karere Council Inaugural Meeting

His Worship the Mayor            G Webber

Councillors:                        G Dally  
    M Dean  
    M Lally  
    P Mackay  
    K Marsh  
    D Marshall  
    M Murray-Benge  
    J Palmer  
    J Scrimgeour  
    D Thwaites  
    M Williams

Media  
Staff

The Inaugural Meeting of the Western Bay of Plenty District Council for the 2013-2016 Triennium will be held at the Te Puke War Memorial Hall, Jellicoe Street, Te Puke

on

Thursday 10 November 2016

The meeting will begin with a powhiri that starts at 1:30pm

Miriam Taris  
**Chief Executive Officer**  
**Western Bay of Plenty District Council**



*Western Bay of Plenty  
District Council*

Te Kaunihera a rohe mai i nga Kuri-a-Wharei ki Otamarakau ki te Uru

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# Agenda for Meeting No. C-IN

		<b>Pages</b>
	<b>Powhiri Present In Attendance Apologies</b>	
C-IN.1	<b>Welcome by the Chief Executive Officer and Declaration by His Worship the Mayor</b>  The Making and Attesting of the Declaration required of His Worship the Mayor of the Western Bay of Plenty District Council to be witnessed by the Chief Executive Officer.	
C-IN.2	<b>Welcome by His Worship the Mayor and Declaration by Councillors</b>  The Making and Attesting of the Declaration by each of the Councillors to be witnessed by His Worship the Mayor.	
C-IN.3	<b>Elected Members Legislative Obligations</b>  Attached is a report from the Chief Executive Officer dated 28 October 2016.	1-14
C-IN.4	<b>Appointment of Deputy Mayor</b>  Attached is a report from His Worship the Mayor dated 28 October 2016.	15
C-IN.5	<b>Establishment of Committees and Appointment of Chairs and Deputy Chairs - 2016-2019</b>  Attached is a report from His Worship the Mayor dated 1 November 2016.	16-17
C-IN.6	<b>Appointment of Councillors to Community Boards</b>  Attached is a report from His Worship the Mayor dated 28 October 2016.	18-21

C-IN.7

**First Business Meeting of the Western Bay of Plenty District Council**

**Recommendation**

*THAT pursuant to Clause 2(d) Schedule 7 of the Local Government Act 2002 the first business meeting of the Western Bay of Plenty District Council to be held on 24 November 2016 at the Council Chambers, Barkes Corner, Tauranga, commencing at 9:30am.*

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## Western Bay of Plenty District Council

### Council

## Elected Members Legislative Obligations

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### Purpose

Pursuant to Schedule 7 Clause 21(5)(c) the Local Government Act 2002 the Chief Executive Officer must, at the first meeting of the local authority following the triennial general election, give the elected members a general explanation of the laws affecting them as elected officials.

The following report outlines elected members obligations in relation to:

- The Local Government Act 2002 and the Local Government Act 2002 Amendment Act 2012
- Local Government Official Information and Meetings Act 1987
- The Local Authorities (Members' Interests) Act 1968
- Crimes Act 1961
- Secret Commissions Act 1910
- Public Audit Act 2001
- Resource Management Act 1991
- Financial Markets Conduct Act 2013
- Health and Safety at Work Act 2015

There are a large number of other pieces of legislation which impact on the affairs of Council. A schedule of these is attached for your information and professional advice on these matters will be provided if required when Council addresses items under these pieces of legislation. It should be noted that the list is not exhaustive and is amended from time to time with changes in legislation.

### Recommendation

- 1. THAT the Chief Executive Officer's Report dated 28 October 2016 and titled Elected Members Legislative Obligations be received.**
- 2. THAT Council instructs the Chief Executive Officer to establish a register of members interests pursuant to the provisions of the Local Authorities (Members' Interests) Act 1968.**
- 3. THAT Council delegates to the Democracy Management Advisor the**

*responsibility for maintaining the Register of Members' Interests.*

4. ***THAT all Elected Members disclose to Council for entry into the Register of Members' Interests any pecuniary interests they or their spouse/partner may have in relation to their dealings with the Western Bay of Plenty District Council and update their disclosures annually, and as change occurs.***



Miriam Taris  
Chief Executive Officer

## 1. Background

Pursuant to Schedule 7 Clause 21(5)(c) the Local Government Act 2002 the Chief Executive Officer must, at the first meeting of the local authority following the triennial general election, give the elected members a general explanation of the laws affecting them as elected officials.

## 2. Key Statutes Affecting Elected Members

The key statutes that impact on local government are as follows:

### 2.1 Local Government Act 2002 and Local Government Act 2002 Amendment Act 2012

This is the principal piece of empowering legislation for Council. The Act sets out the purpose of local government and the role of local authorities. It provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they undertake them and promotes accountability of local authorities to their communities.

Section 10 of the Act provides that the purpose of local government is:

- a) To enable democratic local decision-making and action by and on behalf of communities; and
- b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses

Good quality means, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—

- (a) efficient; and
- (b) effective; and
- (c) appropriate to present and anticipated future circumstances

The role of a local authority is to give effect to the purpose of local government in its territorial district and to perform duties, and exercise rights, conferred by statute (Section 11).

Section 12 grants a general power of competence to local authorities to carry on or undertake any business, do any act or enter into any transaction for the purpose of performing their role. This power is subject to the rest of the Local Government Act 2002, any other enactment and the general law.

Part 4 of the Act describes the governance principles that apply to local authorities, and includes the role and powers of mayors as below:

41A Role and powers of mayors

- (1) The role of a mayor is to provide leadership to—
  - (a) the other members of the territorial authority; and
  - (b) the people in the district of the territorial authority.
- (2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.
- (3) For the purposes of subsections (1) and (2), a mayor has the following powers:
  - (a) to appoint the deputy mayor:
  - (b) to establish committees of the territorial authority
  - (c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
    - (i) may make the appointment before the other members of the committee are determined; and
    - (ii) may appoint himself or herself.
- (4) However, nothing in subsection (3) limits or prevents a territorial authority from—
  - (a) removing, in accordance with clause 18 of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or
  - (b) discharging or reconstituting, in accordance with clause 30 of Schedule 7, a committee established by the mayor under subsection (3)(b); or
  - (c) appointing, in accordance with clause 30 of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or
  - (d) discharging, in accordance with clause 31 of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).
- (5) A mayor is a member of each committee of a territorial authority.
- (6) To avoid doubt, a mayor must not delegate any of his or her powers under subsection (3).
- (7) To avoid doubt,

- (a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a):
- (b) clauses 25 and 26(3) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3)(c) in respect of that committee.

This section needs to be read in conjunction with Schedule 7 of the Local Government Act 2002 which details amongst other issues relating to elected members, the governance process in terms of the setting up of Committees, joint Committees and other subordinate governance bodies, delegations, remuneration process, and meeting requirements outside of those detailed in the Local Government Official Information & Meetings Act 1987.

Part 6 of the Act contains detailed provisions relating to planning, decision making and accountability. This part of the Act specifies a mandatory process for decision making and includes principles governing consultation, consideration of the views of persons likely to be affected by, or those with an interest in, a decision, and the contribution of Maori to decision making processes.

In addition this part sets out requirements for reporting, financial management, and the long term and annual plans.

## **2.2 Local Government Official Information & Meetings Act 1987**

The Act is divided into two sections, with parts one through six dealing with official information and requests for personal information, and part seven dealing with the conduct of local authority meetings. Part seven should be read in conjunction with Council's standing orders.

### 2.2.1 Official Information

The Act requires Council to make all information relating to its operation available to the public unless there is a good reason for withholding the information. Elected Members should be aware that the minutes of meetings, correspondence received by Council which includes correspondence received and generated by Councillors in their capacity as elected members, all reports etc are subject to public scrutiny upon request.

The reasons for withholding information are set out in sections 6 and 7 of the Act. Section 6 gives two conclusive reasons for withholding official information:

- The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial, or

- The making available of the information would be likely to endanger the safety of any person.

Section 7 of the Act lists the following as good reasons for withholding official information in meeting documents and process unless in the particular circumstances the withholding of the information is outweighed by other considerations, which render it desirable in the public interest to make the information available:

- Protect the privacy of natural persons including that of deceased natural persons
- Protect commercially sensitive material
- In case of applications under the Resource Management Act 1991, to avoid serious offence to tikanga Maori or disclosure of location of waahi tapu
- Protect information that is subject to an obligation of confidence
- Protect the health and safety of members of the public
- Protect members of the public from material loss
- Protect members, officers, employees and persons from improper pressure or harassment
- Maintain legal professional privilege
- Allow the local authority to carry out commercial activities without prejudice or disadvantage
- Allow the local authority to carry out negotiations without prejudice or disadvantage
- Prevent the use of the information for improper gain or advantage

If the local authority does refuse a request for information then the requester is entitled to a reason for the refusal and the local authority must inform them of their right under section 27 of the Act to apply to the Ombudsmen for a review of the decision to refuse.

### 2.2.2 Personal Information

Section 23 of the Act gives a person the right to access any personal information held about them by the local authority and to request a correction to that information if necessary. Refusal to grant a request for personal information is allowed under the conditions set out in sections 6, as listed above, and 7(2)(b). Section 7(2)(b) deals with the refusal of a request because the request would disclose a trade secret or prejudice the commercial position of the person who supplied the information.

Section 26 sets out additional reasons for the refusal of a request for personal information which includes, but is not limited to:

- Disclosure of the information would involve the unwarranted disclosure of the affairs of another person or of a deceased person
- Disclosure of the information would breach an express or implied promise that was made to the person who supplied the information that the information and/or identity of the person who supplied it would be kept in confidence
- Disclosure would breach legal professional privilege
- The request is frivolous or vexatious, or the request is trivial

### 2.2.3 Local Authority Meetings

Section 46 of the Act requires the local authority to publicly notify not more than 14 days and not less than 5 days before the end of the month all meetings that are scheduled to be held the following month. The section also sets out the procedure for notification of any additional meetings in cases where it is not possible to comply with the above.

Members of the public are entitled, without the payment of any fee, to inspect the agendas and associated reports at least two working days before each meeting.

Pursuant to section 47, unless a good reason exists to exclude them, a meeting of the local authority shall be open to the public.

The reasons for exclusion of the public are set out in section 48, including:

- Conclusive reasons (s6):
  - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial, or
  - The making available of the information would be likely to endanger the safety of any person.
- Good reasons (s7):
  - Protect the privacy of natural persons, including that of natural deceased persons
  - Protect commercially sensitive material
  - In case of applications under the Resource Management Act 1991, to avoid serious offence to tikanga Maori or disclosure of the location of waahi tapu
  - Protect information that is subject to an obligation of confidence
  - Protect the health and safety of members of the public
  - Prevent members of the public from material loss
  - Legal professional privilege
  - Free and frank expression of opinions by or between or to members or officers or employees of any local authority in the course of their duty
  - Allow the local authority to carry out commercial negotiations without prejudice or disadvantage
  - Prevent the use of the information for improper gain or advantage
- Additional reasons:
  - Proceedings of the meeting would be likely to result in disclosure of information contrary to the provisions of a specified enactment
  - Disclosure of information would constitute contempt of court or of the House of Representatives
  - Meeting is to consider a recommendation from the Ombudsman
  - Proceedings concern a right of appeal to any Court or Tribunal

Section 49 sets out the provisions that apply to open meetings:

- For the purposes of this Act members of the media are deemed to be members of the public
- Additional copies of the agenda and associated reports shall be available for members of the public attending the meeting

Section 50 grants to the person presiding at the meeting the authority to require a person to leave the meeting if they believe on reasonable grounds that their behaviour is likely to prejudice or continue to prejudice the orderly conduct of the meeting. If a person once requested to leave refuses or returns without the consent of the person presiding, the person presiding may request a constable, or any officer or employee of the local authority to remove them from the meeting.

### **2.3 Local Authorities (Members Interests) Act 1968**

The Act contains provisions relating to: (i) contracts between elected members and local authorities; and (ii) elected members voting on matters where they have a pecuniary interest.

#### 2.3.1 Contracts

Section 3 of the Act provides that no person shall be elected or appointed to be a member of a local authority or any committee of a local authority, if the total payments made by that local authority in respect of a contract with which that person is concerned or interested exceeds \$25,000 in any financial year (although the local authority can seek the approval of the Audit Office on a case by case basis).

If a member breaches the \$25,000 limit, he/she is disqualified from holding office and there is an extraordinary vacancy. The disqualification remains until the next triennial election.

#### 2.3.2 Pecuniary Interest

The Act further provides that a member of a local authority shall not vote on or take part in the discussion of any matter in which he/she has, directly or indirectly, any pecuniary interest, other than an interest in common with the public. The same applies if a member's spouse or partner has, directly or indirectly, a pecuniary interest, other than an interest in common with the public.

Members who are prohibited from voting on or discussing a matter are under a duty to declare their interest to the meeting, and their abstention from discussion or voting is required to be recorded in the minutes.

If a member acts in breach of this prohibition, he/she commits an offence and is liable to a fine of \$100. The member is required to vacate office, creating an extraordinary vacancy.

Further and full interpretation of this Act by the Office of the Auditor General including guidelines has been separately provided to all elected members.

## 2.4 Crimes Act 1961

Sections 99, 105 and 105A of the Crimes Act 1961 relate to corruption and bribery of an official or by a person acting in his/her capacity as an official; and the corrupt use of official information.

The term "official" is defined in section 99 of the Act and includes any member or employee of a local authority.

Section 105 deems it a crime to corruptly accept or obtain, or agree or offer to accept or attempt to obtain, any bribe for him/herself or any other person in respect of any act done or omitted, or to be done or omitted, by him/her in their official capacity.

This section further provides that it is a crime to corruptly give or offer or agree to give a bribe to any person with the intent to influence any official in respect of any act done or omitted, or to be done or omitted, by him/her in their official capacity.

Section 105A states that it is a crime for any official to corruptly use or disclose any information acquired by him/her in their official capacity, to obtain (either directly or indirectly) an advantage or pecuniary gain for him/herself or any other person.

Each of the above-mentioned provisions are punishable by imprisonment for a term not exceeding 7 years.

## 2.5 Secret Commissions Act 1910

The Secret Commissions Act 1910 deals with the commission of offences by an agent. The term "agent" is defined in section 16(1)(b) of the Act and includes any elected member or employee of a local authority.

Agents are deemed to commit an offence if they have a pecuniary interest in a contract made on behalf of the principal; or if they accept or attempt to obtain for him/herself or any other person, any gift or inducement or reward for doing or not doing something in relation to the principal's business.

Section 5 of the Act provides that an agent who makes a contract on behalf of the principal must disclose any pecuniary interest in the contract.

Persons convicted of an offence under this Act are liable for a fine not exceeding \$1000 or imprisonment for a term not exceeding 2 years in the case of an individual; or a \$2000 fine if a corporation.

## 2.6 Public Audit Act 2001

Local authorities are defined as "public entities" in section 4 of the Act. The Auditor General is the auditor of every public entity and is required, from time to time, to audit the financial statements, accounts, and other information that a public entity is required to have audited.

The Auditor-General may at any time examine:

- (a) The extent to which a public entity is carrying out its activities effectively and efficiently;
- (b) A public entity's compliance with its statutory obligations;
- (c) Any act or omission showing or appearing to show a lack of probity or financial prudence by a public entity or 1 or more of its members, office holders, and employees.

The Auditor-General may inquire into any matter concerning a public entity's use of its resources.

## 2.7 Resource Management Act 1991

The purpose of the Resource Management Act 1991 is to promote the sustainable management of natural and physical resources while enabling people and communities to meet their needs. It provides a formal framework against which standards, policy statements and plans can be formulated and evaluated.

The Act identifies the following as matters of national importance which are required to be recognised and provided for:

- Preservation of the natural character of the coastal environment;
- Protection of outstanding natural features and landscapes;
- Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- Maintenance and enhancement of public access to and along the coastal marine area, rivers and lakes;
- The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

The Act provides for a hierarchy of planning documents including: National Policy Statements; Regional Policy Statements and Plans; and District Plans.

- (a) **National Policy Statements**  
National Policy Statements are made about matters with national implications. Regional Plans and District Plans must not be inconsistent with a National Policy Statement.
- (b) **Regional Policy Statements and Plans**  
Regional Policy Statements and Plans are made about matters of regional significance. They cut across district boundaries. District Plans cannot be inconsistent with a Regional Policy Statement or Plan.
- (c) **District Plans**  
The District Plan contains a statement of issues, objectives, policies and methods for the use of resources within that district. It provides the policy

basis for land use and subdivision activities, including assessment of resource consents.

(d) **Resource Consents**

Resource consents are specific approvals to undertake activities. Applications for resource consent must assess any actual or potential environmental impact of the proposed activity and identify ways in which any adverse effects can be overcome or mitigated. If consent is granted, it allows the applicant to use a particular resource – usually subject to conditions. Resource consents may be publicly notified or not, depending on the circumstances of the application.

(e) **Resource Consent Hearings**

Resource Consent Hearings take place when development proposals : (i) cover activities that are required to have resource consent pursuant to a District Plan and (ii) are determined to be publicly notified. Resource consent hearings are public meetings. The Hearings Panel may deliberate in private but then must announce its decision in public. A Hearing may be conducted by an independent Commissioner(s) appointed by Council. Council is required to have all of its Hearings Committee qualified under the Making Good Decisions programme sponsored by the Ministry for the Environment. There is also a requirement that the Chair have a separate Chair's qualification.

## **2.8 Financial Markets Conduct Act 2013**

The Financial Markets Conduct Act 2013 replaced the Securities Act 1978. The purpose of the Act is to promote and facilitate the development of fair, efficient and transparent financial markets, and to promote the confident and informed participation of businesses, investors and consumers. The Financial Markets Conduct Act works to reform the regulation of financial conduct and governs the way financial products are offered, promoted, issued and sold. This includes the on-going responsibilities of those who offer, issue, manage, supervise, deal in and trade financial products. The Financial Markets Conduct Act also regulates the provision of certain financial services.

The Financial Markets Conduct essentially places elected members in the same position as company directors whenever the Council offers financial products (such as an issue of debt or equity securities). Elected members may be personally liable if documents that are registered under the Act, such as a product disclosure statement, contain false or misleading statements. Elected members may also be liable if the requirements of the Act are not met in relation to offers of financial products.

## **2.9 Health and Safety at Work Act 2015**

On 4 April 2016, the Health and Safety at Work Act 2015 came into force, and provides a significant change to New Zealand's current health and safety legislation. It is a response to the scrutiny placed on New Zealand's health and safety practices following the Pike River tragedy.

The Act allocates duties to those people who are in the best position to control risks to health and safety as appropriate to their role in the workplace, and for the person

conducting a business or undertaking (PCBU) (i.e. the Council) to ensure, as far as is reasonably practicable, the safety of workers and others who may be impacted by the work the business undertakes.

One of the significant changes is the introduction of "Officers", who is any person occupying a position in relation to the business or undertaking, that allows the person to exercise significant influence over the management of the business or undertaking.

For the purposes of the Act, elected Council members (which include the Mayor Councillors and Community Board members) and the Chief Executive are by default identified as "Officers". The Council has also designated Group Managers as "Officers".

Officers have obligations of due diligence, which are:

- (a) To acquire, and keep up-to-date, knowledge of work health and safety matters; and
- (b) To gain an understanding of the nature of the operations of the business or undertaking of the PCBU, and generally of the hazards and risks associated with those operations; and
- (c) To ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and
- (d) To ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information; and
- (e) To ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
- (f) To verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).

### **3. Conclusion**

If Elected Members have any concerns or questions in relation to these or any other obligations they should discuss them with the Chief Executive Officer.

## ATTACHMENT

Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008	Forest and Rural Fires Act 1977
Affordable Housing Enabling Territorial Authorities Act Repeal Act 2008	Gambling Act 2003
Airport Authorities Act 1966	Gas Act 1992
Animals Law Reform Act 1989	Goods and Services Tax Act 1985
Archives, Cultural, and Heritage Reform Act 2000	Health Act 1956
Arts Council of New Zealand Toi Aotearoa Act 1994	Health and Safety At Work Act 2015
Biosecurity Act 1993	Hazardous Substances and New Organisms Act 1996
Building Act 2004	Health and Safety in Employment Act 1992
Building Research Levy Act 1969	Historic Places Act 1993
Burial and Cremation Act 1964	Holidays Act 2003
Bylaws Act 1910	Housing Act 1955
Citizenship Act 1977	Housing Assets Transfer Act 1993
Civil Defence Emergency Management Act 2002	Housing Corporation Act 1974
Climate Change Response Act 2002	Human Rights Act 1993
Commerce Act 1986	Income Tax Act 2007
Companies Act 1993	Impounding Act 1955
Conservation Act 1987	Injury Prevention, Rehabilitation and Compensation Act 2001
Consumer Guarantees Act 1993	Insolvency Act 2006
Copyright Act 1994	Insolvency Cross Border Act 2006
Counties Insurance Empowering Act 1941	Interpretation Act 1999
Crimes Act 1961	Joint Family Homes Act 1964
Dairy Industry Restructuring Act 2001	Judicature Act 1908
Disabled Persons Community Welfare Act 1975	Land Act 1948
District Courts Act 1947	Land Drainage Act 1908
Dog Control Act 1996	Land Transfer Act 1952
Earthquake Commissions Act 1993	Land Transport Act 1998
Electricity Act 1992	Land Transport Management Act 2003
Employment Relations Act 2000	Libraries and Mechanics' Institute Act 1908
Energy Companies Act 1992	Litter Act 1979
Engineering Associates Act 1961	Local Authorities (Members' Interests) Act 1968
Environment Act 1986	Local Electoral Act 2001
Equal Pay Act 1972	Local Electoral Amendment Act 2002
Fair Trading Act 1986	Local Government (Rating) Act 2002
Fencing Act 1978	Local Government Act 1974
Fencing of Swimming Pools Act 1987	Local Government Act 2002
Financial Markets Conduct Act 2013	Local Government Act 2002 Amendment Act 2012
Financial Reporting Act 1993	Local Government Official Information and Meetings Act 1987
Fire Service Act 1975	Machinery Act 1950
Food Act 1981	Maori Purposes Act 1931-1994
Foreshore and Seabed Act 2004	Minimum Wage Act 1983
National Provident Fund Restructuring Act 1990	Municipal Insurance Act 1960
	Soil Conservation and Rivers Control Act 1941

<p>New Zealand Bill of Rights Act 1990          New Zealand Geographic Board (Nga Pou Taunaha o Aotearoa Act 2008          New Zealand Library Association Act 1939          New Zealand Public Health and Disability Act 2000          Oaths and Declarations Act 1957          Ombudsmen Act 1975          Plumbers and Gasfitters and Drainlayers Act 2006          Privacy Act 1993          Property Law Act 2007          Prostitution Reform Act 2003          Protected Disclosures Act 2000          Public Audit Act 2001          Public Bodies Contracts Act 1959          Public Bodies Leases Act 1969          Public Works Act 1981          Queen Elizabeth the Second National Trust Act 1977          Railways Act 2005          Rating Valuations Act 1998          Rates Rebate Act 1973          Remuneration Authority Act 1977          Reserves Act 1977          Residential Tenancies Act 1986          Resource Management Act 1991          Sale and Supply of Alcohol Act 2012          Secret Commissions Act 1910          Securities Act 1978          Securities Transfer Act 1991          Smoke-free Environments Act 1990</p>	<p>Sovereign's Birthday Observance Act 1952          Standards Act 1988          Statutes Amendment Acts 1936-1951          Statutory Land Charges Registration Act 1928          Summary Offences Act 1981          Te Ture Whenua Maori Act 1993          Telecommunications Act 2001          Transit New Zealand Act 1989          Transport Act 1962          Treaty of Waitangi Act 1975          Trespass Act 1980          Trustee Act 1956          Unit Titles Act 1972          Wages Protection Act 1983          Walking Access Act 2008          Waste Minimisation Act 2008          Weathertight Homes Resolution Services Act 2006          Wild Animal Control Act 1977          Wildlife Act 1953</p> <p><b>Local Legislation</b></p> <p>Tauranga County Empowering (Community Centres) Act 1965          Tauranga Foreshore Vesting and Endowment Act 1915          Tauranga Harbour Amendment and Foreshore Vesting Act 1917</p>
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This list may be amended from time to time with legislative change. Not all amendments are shown.

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## Western Bay of Plenty District Council

### Council

## Appointment of Deputy Mayor - 2016 - 2019

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### 1. Purpose

The Mayor is required to appoint the Deputy Mayor at the first meeting of the local authority under Section 41A Clause 3 and Clause 21(5) (d) of Schedule 7 of the Local Government Act 2002.

### 2. Legislation – Mayoral Powers

Clause 3 of section 41A of the Local Government Act 2002 states:

*(3) For the purposes of subsections (1) and (2), a mayor has the following powers:*  
*(a) to appoint the deputy mayor:*

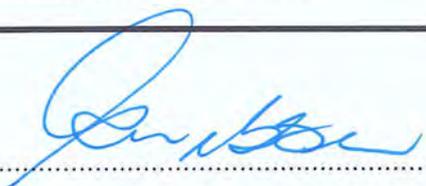
Clause 4 of the new section 41A does provide for the Council to overturn the appointment of the Deputy Mayor appointed by the Mayor however the Council must follow a process set out under Clause 18 of Schedule 7.

Following discussions with Councillors I have chosen to appoint Councillor Williams as the Deputy Mayor.

I congratulate Councillor Williams and wish him all the best in this role.

### Recommendation

***THAT the Mayor's Report to Council dated 28 October 2016 advising the appointment of Councillor Williams as Deputy Mayor for the 2016-2019 triennium be received.***



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Garry Webber  
**Mayor**

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## Western Bay of Plenty District Council

### Council

## Establishment of Committees and Appointment of Chairs and Deputy Chairs - 2016 - 2019

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### Purpose

To establish the new governance structure for the 2016-2019 triennium.

### Legislation – Mayoral Powers

Section 41A of the Local Government Act 2002 states:

- (1) The role of a mayor is to provide leadership to—
  - (a) the other members of the territorial authority; and
  - (b) the people in the district of the territorial authority.
- (2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.
- (3) For the purposes of subsections (1) and (2), a mayor has the following powers:
  - (a) to appoint the deputy mayor;
  - (b) to establish committees of the territorial authority;
  - (c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
    - (i) may make the appointment before the other members of the committee are determined; and
    - (ii) may appoint himself or herself.

To set the governance structure for Council going forward I am therefore establishing the following Committees and appointing the Chairs and Deputies as follows:

**Community Committee:** Chair - Councillor Peter Mackay, Deputy Chair - Councillor Margaret Murray-Benge

<b>Long Term and Annual Plan Committee:</b>	Chair - Councillor John Scrimgeour, Deputy Chair - Councillor Peter Mackay
<b>Operations/Monitoring Committee:</b>	Chair - Chair Councillor Don Thwaites, Deputy Chair - Councillor John Palmer
<b>Policy Committee:</b>	Chair - Councillor Mike Williams, Deputy Chair: Councillor David Marshall
<b>Rural Committee:</b>	Chair - Councillor Kevin Marsh, Deputy Chair: Councillor Mark Dean

Details of the delegations and memberships of the Committees will be presented to Council for consideration at its first business meeting on 24 November.

## Recommendation

***THAT the Mayor's Report to Council dated 1 November 2016 advising the following governance structure and appointments be received.***

***Community Committee: Chair - Councillor Peter Mackay, Deputy Chair - Councillor Margaret Murray-Benge***

***Long Term and Annual Plan Committee: Chair - Councillor John Scrimgeour, Deputy Chair - Councillor Peter Mackay***

***Operations/Monitoring Committee: Chair - Chair Councillor Don Thwaites, Deputy Chair - Councillor John Palmer***

***Policy Committee: Chair - Councillor Mike Williams, Deputy Chair: Councillor David Marshall***

***Rural Committee: Chair - Councillor Kevin Marsh, Deputy Chair: Councillor Mark Dean***



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Garry Webber  
**Mayor**

## Western Bay of Plenty District Council

### Council

## Appointment of Councillors to Community Boards

### Purpose

Council is required under the Local Government Commission determination on representation dated 1 February 2013 to appoint two Councillors to each of its five community boards.

### Recommendation

1. *THAT the Mayor's report dated 27 October 2016 and titled Appointment of Councillors to Community Boards 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.*
1. *THAT pursuant to section 50 of the Local Government Act 2002 and section 19F of the Local Electoral Act 2001 Council appoints the following Councillors to the respective Community Boards:*

*Katikati Community Board: Councillors Peter Mackay and Mike Williams*

*Omokoroa Community Board: Councillors Margaret Murray-Benge and John Palmer*

*Maketu Community Board: Councillors Kevin Marsh and John Scrimgeour*

*Te Puke Community Board: Councillors Grant Dally and John Scrimgeour*

*Waihi Beach Community Board: Councillors David Marshall and Mike Williams*

  
Garry Webber  
Mayor

## 1. Background

Pursuant to section 50 of the Local Government 2002 Council may appoint Councillors to Community Boards, provided such appointments are made in accordance with Local Electoral Act 2001.

Section 19F(1) of the Local Electoral Act 2001 gives Council the authority to appoint members to the Community Boards. Section 19F(2) states that the number of appointed members must be less than half the total number of members.

Section 19F(3) further states that if the territorial authority is divided into wards the appointed members must be members of the territorial authority representing the ward in which the community is situated.

In addition as part of the 2012 representation review under section 19R of the Local Electoral Act 2001 the Local Government Commission formally established the membership requirements of each of the Boards, (Extract attached) including stipulation of numbers of Councillors to be appointed.

## 2. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this decision is considered to be of low significance because it is an administrative requirement.

## 3. Appointments

The proposed appointments are:

Katikati Community Board	Councillors Peter Mackay and Mike Williams
Omokoroa Community Board	Councillors Margaret Murray-Benge and John Palmer
Maketu Community Board	Councillors Kevin Marsh and John Scrimgeour
Te Puke Community Board	Councillors Grant Dally and John Scrimgeour
Waihi Beach Community Board	Councillors David Marshall and Mike Williams

All proposed elected member appointments meet the requirements of Section 19F of the Local Electoral Act 2001.

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**Extract from Local Government Commission Determination - 1 February 2013****Commission's Determination**

46. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Western Bay of Plenty District Council to be held on 12 October 2013, the following representation arrangements shall apply –
- (1) Western Bay of Plenty District, as delineated on Plan LGC-022-2013-W1 deposited with the Local Government Commission, will be divided into three wards;
  - (2) Those three wards shall be –
    - (a) Katikati - Waihi Beach Ward, comprising the area delineated on LGC Plan 022-2013-W-2 deposited with the Local Government Commission
    - (b) Kaimai Ward, comprising the area delineated on LGC Plan 022-2013-W-3 deposited with the Local Government Commission
    - (c) Maketu - Te Puke Ward, comprising the area delineated on LGC Plan 022-2013-W-4 deposited with Land Information New Zealand; and
  - (3) The Council shall comprise the Mayor and 11 Councillors , elected as follows:
    - (a) 3 councillors elected by the electors of the Katikati - Waihi Beach Ward;
    - (b) 4 councillors elected by the electors of the Kaimai Ward;
    - (c) 4 councillors elected by the electors of the Maketu – Te Puke Ward;
  - (4) There shall be five communities as follows:
    - (a) the Katikati Community, comprising the area delineated on SO Plan 58074 deposited with Land Information New Zealand;
    - (b) the Waihi Beach Community, comprising the area delineated on SO Plan 58078 deposited with Land Information New Zealand;
    - (c) the Omokoroa Community, comprising the area delineated on SO Plan 382062, deposited with Land Information New Zealand;
    - (d) the Maketu Community, comprising the area delineated on SO Plan 58102 deposited with Land Information New Zealand;

- (e) the Te Puke Community, comprising the area delineated on SO Plan 58076 deposited with Land Information New Zealand.
- (5) The membership of each community board shall be as follows:
- (a) the Katikati Community Board shall comprise four elected members and two members appointed to the community board by the Council;
  - (b) the Waihi Beach Community Board shall comprise four elected members and two members appointed to the community board by the Council;
  - (c) the Omokoroa Community Board shall comprise four elected members and two members appointed to the community board by the Council;
  - (d) the Maketu Community Board shall comprise four elected members and two members appointed to the community board by the Council;
  - (e) the Te Puke Community Board shall comprise four elected members and two members appointed to the community board by the Council.
47. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

## **THE LOCAL GOVERNMENT COMMISSION**

Basil Morrison	(Chair)
Anne Carter	(Commissioner)
Grant Kirby	(Commissioner)

1 February 2013